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Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL (GUJARAT AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 1 OF 2011.

A BILL

further to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

It is hereby enacted in the Sixty-second Year of the Republic of India
as follows:-

1. (1) This Act may be called the Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Amendment) Act, 2011. Short title and commencement.

- (2) It shall come into force from the 1st April, 2011.

Amendment
of section 3 of
Bom.LVII
of 1947.

2. In the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (hereinafter referred to as "the principal Act"), in section 3, in sub-section (2), for the figures, letters and words "31st day of March, 2011", the figures, letters and words "31st day of March, 2021" shall be substituted.

Bom.LVII of
1947.

Amendment
of section 4 of
Bom. LVII
of 1947.

3. In the principal Act, in section 4, in sub-section (1A), the words "for a period of ten years from the date of the commencement of the amending Act" shall be deleted.

STATEMENT OF OBJECTS AND REASONS

The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 is due to expire on the 31st March, 2011. It is considered necessary to extend the duration of the Act for a further period of ten years *i.e.* up to 31st March, 2021. *Clause 2* of the Bill provides for the same.

In order to boost the house building activity and to encourage the landlord to let premises, it is considered necessary to extend the exemption given to the premises constructed and the premises which are self-occupied or vacant on or after the date of the commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Amendment) Act, 2001, till the duration of the Act. *Clause 3* of the Bill provides accordingly.

The Bill seeks to amend the said Act to achieve the aforesaid objects.

Gandhinagar,
Dated the 25th January, 2011.

NITIN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 29th January, 2011.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE BOMBAY INAMS (KUTCH AREA) ABOLITION (REPEAL) BILL, 2011.

GUJARAT BILL NO. 2 OF 2011.

A BILL

to repeal the Bombay Inams (Kutch Area) Abolition Act, 1958.

WHEREAS it is expedient to repeal obsolete Act, it is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

1. This Act may be called the Bombay Inams (Kutch Area) Short title. Abolition (Repeal) Act, 2011.

Repeal. 2. The Bombay Inams (Kutch Area) Abolition Act, 1958 is hereby repealed. Bom. XCVIII of 1958.

Savings. 3. (1) Notwithstanding the repeal of the Bombay Inams (Kutch Area) Abolition Act, 1958 (hereinafter referred to as "the said Act"), - Bom. XCVIII of 1958.

- (a) land made liable to payment of land revenue in accordance with the Bombay Land Revenue Code, 1879 and the rules made thereunder by the said Act shall continue to be so liable, and Bom. V of 1879.
- (b) the liability to pay land revenue levied under the said Code imposed on the holder of land by the said Act shall continue.

(2) The repeal of the said Act shall not affect -

- (a) any restriction imposed by the said Act on transfer of land; or
- (b) the application of the provisions of the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 to any land or the relationship between holder of land or, as the case may be, landlord and his tenant made by the said Act. Bom. XCIX of 1958.

(3) Without prejudice to the provisions contained in sub-sections (1) and (2) and subject thereto, section 7 of the Bombay General Clauses Act, 1904 shall apply in relation to the repeal of the said Act as if the said Act had been an enactment within the meaning of the said section 7. Bom. I of 1904.

STATEMENT OF OBJECTS AND REASONS

The Gujarat State Law Commission has in its third report recommended for repeal of certain Acts on the grounds that they have become obsolete. Some of the obsolete Acts mentioned in the third report of the Gujarat State Law Commission have been repealed by the Gujarat Repealing Act, 2000 (Guj. 13 of 2000).

So far as the various Land Tenure Abolition and Inams Abolition Acts are concerned, the Commission was of the view that the Land Tenure has been abolished and the very purpose of the Acts have already been achieved, and therefore the said Acts were no longer required to be kept on Statute Book.

In pursuance of the recommendation of the third report of the Gujarat State Law Commission, it is considered necessary to repeal the Bombay Inams (Kutch Area) Abolition Act, 1958. The said Act contains provisions making the holder of the lands liable to payment of land revenue, restricting transfer of land and applying the provisions of the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 to the land or relationship between a holder of land or landlord and his tenant. It is, therefore, proposed to save the aforesaid liability, restriction and application.

This Bill seeks to achieve the aforesaid objects.

Gandhinagar,
Dated the 25th January, 2011.

ANANDIBEN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 29th January, 2011.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT FISHERIES (AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 3 OF 2011.

A BILL

further to amend the Gujarat Fisheries Act, 2003.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Fisheries (Amendment) Act, Short title. 2011.

Amendment
of section 2
of Guj. 8 of
2003.

2. In the Gujarat Fisheries Act, 2003 (hereinafter referred to as "the principal Act"), in section 2, for clause (n), the following clause shall be substituted, namely :-

Guj. 8 of 2003.

"(n) "registered fishing vessel" means a fishing vessel registered under section 12, or under the Merchant Shipping Act, 1958;".

44 of 1958.

3. In the principal Act, in section 10, in sub-section (3), for the first proviso, the following proviso shall be substituted, namely :-

Amendment
of section 10
of Guj. 8 of
2003.

"Provided that no licence shall be granted in respect of a fishing vessel which is not registered under section 12 or under the Merchant Shipping Act, 1958 :".

44 of 1958.

STATEMENT OF OBJECTS AND REASONS

After the terrorist attack at Mumbai on 26.11.2008, a High Level Committee was constituted by the Government of India to suggest the effective measures to control terrorism. It was decided to register all fishing vessels with uniform pattern of vessel registration all over the country by a single institution or an agency.

Presently, fishing vessels are registered by all maritime States as per their Marine Fisheries Regulation (MFR) Act and being done through different agency. The Director General of Shipping, Government of India, has submitted a report incorporating methodology for uniform vessels registration in the country. All the fishing vessels are required to be registered under Merchant Shipping Act, 1958. Therefore, the boats which have already been registered under the Merchant Shipping Act, 1958 would not required to be registered under other Act. It was also decided to register and to issue fishing licence through a single agency to avoid duplication and to make data available to security agencies. The Government of India has empowered all Maritime States to register the fishing vessels under the Merchant Shipping Act, 1958.

As per section 12 of the Gujarat Fisheries Act, 2003, fishing vessels are required to be registered and as per section 10 of the said Act, the fishing licence can only be issued to the vessels which have been registered under section 12. Now, the vessels registered under the Merchant Shipping Act, 1958 also need to be treated as validly registered for issuing fishing licence. Therefore, necessary amendments are required to be made in section 2 and section 10 of the Gujarat Fisheries Act, 2003.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

Gandhinagar.

Dated the 3rd February, 2011.

DILEEP SANGHANI.

By order and in the name of the Governor of Gujarat,

C. J. GOTH,

Gandhinagar,
Dated the 7th February, 2011.

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Extra No. 4



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated in to Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT FISCAL RESPONSIBILITY (AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 4 OF 2011.

A BILL

further to amend the Gujarat Fiscal Responsibility Act, 2005.

It is hereby enacted in the Sixty-second Year of Republic of India as follows:-

1. This Act may be called the Gujarat Fiscal Responsibility (Amendment) Act, 2011. Short title.

Substitution of
section 5 of Guj. 11
of 2005.

2. In the Gujarat Fiscal Responsibility Act, 2005, for section 5, the following section shall be substituted, namely:-

Guj. 11 of
2005.

Fiscal
management
targets.

"5. In particular, and without prejudice to the generality of the foregoing provisions, the State Government shall -

- (a) reduce the revenue deficit to zero by the financial year, commencing from the 1st April, 2011 and ending on the 31st March, 2012 and maintain at that level or generate revenue surplus thereafter;
- (b) reduce fiscal deficit to not more than three per cent. of the estimated Gross State Domestic Product of the year, from the financial year commencing from the 1st April, 2011 and ending on the 31st March, 2012 and maintain at that level thereafter;
- (c) cap the total public debt of the State Government so as not to exceed 27.1 per cent. of the estimated Gross State Domestic Product of the year, for each of the financial years commencing from the 1st April, 2011 and ending on the 31st March, 2015;
- (d) cap outstanding guarantees within the limit provided in the

Guj. XXII of
1963.

Provided that revenue deficit and fiscal deficit may exceed the limits specified under this section due to ground or grounds of unforeseen demands on the finances of the State Government arising out of internal disturbance or natural calamity or due to any other exceptional ground as the State Government may specify :

Provided further that a statement in respect of the ground or grounds specified in the first proviso shall be placed before the State Legislature, as soon as may be, after such deficit amount exceeds the aforesaid targets."

STATEMENT OF OBJECTS AND REASONS

The Gujarat Fiscal Responsibility Act, 2005 was enacted to provide for the responsibility of the State Government to ensure prudence in fiscal management and fiscal stability by progressive elimination of revenue deficit, sustainable debt management consistent with fiscal stability, greater transparency in fiscal operations of the Government and conduct of fiscal policy in a medium term fiscal framework and for matters connected therewith or incidental thereto.

The existing section 5 of the Gujarat Fiscal Responsibility Act, 2005 stipulates the fiscal management targets on revenue deficit and fiscal deficit. The State Government had undertaken number of steps to move forward on the path of fiscal correction and achieved all set parameters of Fiscal Responsibility Act, 2005.

In pursuance to the economic slow down and recession, the targets were relaxed. Now, the 13th Finance Commission has worked out a fiscal consolidation road map for each State and has prescribed revised fiscal target of eliminating revenue deficit, capping fiscal deficit at 3 per cent. and public debt at 27.1 per cent. of the estimated Gross State Domestic Product by 2014-15. The Government of India has vide its letter dated 14th January, 2011 suggested, in general, to amend the Fiscal Responsibility Legislation of the States. It is, therefore, considered necessary to substitute the existing section 5 of the said Act.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

Gandhinagar,
Dated the 17th February, 2011.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 18th February, 2011.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated in to Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT REPEALING BILL, 2011.

GUJARAT BILL NO. 5 OF 2011.

A BILL

to repeal certain Acts.

WHEREAS it is expedient to repeal certain obsolete Acts.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Repealing Act, 2011.
2. The Acts specified in the Schedule are hereby repealed.

Short title.

Repeal of certain Acts.

SCHEDULE*(See section 2)*

Year	No.	Short title of the Act
1939	Bom. XXVI	The Bombay Fodder and Grain Control Act, 1939.
1944	Bom. VIII	The Bombay Growth of Foodcrops Act, 1944.
1946	Bom. XXVII	The Bombay Cotton (Statistics) Act, 1946.

STATEMENT OF OBJECTS AND REASONS

The Bombay Fodder and Grain Control Act, 1939, the Bombay Growth of Foodcrops Act, 1944 and the Bombay Cotton (Statistics) Act, 1946 were applicable in the State of Bombay prior to 1st May, 1960. The aforesaid Acts were adopted by and extended to the State of Gujarat on its formation on 1st May, 1960. The said Acts are very old and the provisions of these Acts are not useful now and since the Acts have been obsolete, they are of no utility. Thus, the said three Acts specified in the Schedule do not require to be kept on the Statute Book. It is, therefore, considered necessary to repeal the aforesaid obsolete Acts.

This Bill seeks to achieve the aforesaid objects.

Gandhinagar,
Dated the 18th February, 2011.

DILEEP SANGHANI.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 18th February, 2011.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Extra No. 6



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PART - V

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(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 6 OF 2011.

A BILL

further to amend the Gujarat Co-operative Societies Act, 1961.

It is hereby enacted in the Sixty-second Year of the Republic of India
as follows:-

1. (1) This Act ~~may be~~ called the Gujarat Co-operative Societies
(Amendment) Act, 2011.

Short title and
commencement.

(2) It shall come into force on such date as the State Government may, by
notification on the *Official Gazette*, appoint.

Amendment of 2. In the Gujarat Co-operative Societies Act, 1961, in section 150, for Guj. X of 1962.
section 150 of sub-section (2), the following sub-section shall be substituted, namely:-
Guj. X of 1962.

“(2) (i) The Tribunal shall consist of a President and such number of other members as the State Government may, from time to time, consider necessary;

(ii) the qualifications and the terms and conditions for appointment of the President and other members shall be such as may be prescribed.”.

STATEMENT OF OBJECTS AND REASONS

Section 150 of the Gujarat Co-operative Societies Act, 1961 provides for the constitution of the Gujarat State Co-operative Tribunal. Sub-section (2) of this section provides that the Tribunal shall consist of a President and not more than three other members. It has been experienced that because of such limited numbers of the members of the Tribunal, the rate of disposal of the cases by the Tribunal has not been satisfactory and as a result of which a great number of cases gets accumulated. To overcome this situation, and also with a view to have the speedy and time bound disposal of the cases before the Tribunal, it is considered necessary to increase the number of members of the Tribunal.

This Bill seeks to amend the said Act to achieve the aforesaid object.

DILEEP SANGHANI,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2.- Para (ii) of sub-section (2) proposed to be substituted by this clause empowers the State Government to prescribe by rules, the qualifications and the terms and conditions for appointment of the President and other members.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 17th February, 2011.

DILEEP SANGHANI.

By order and in the name of the Governor of Gujarat.

Gandhinagar,
Dated the 18th February, 2011.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department



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The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY TENANCY AND AGRICULTURAL LANDS (GUJARAT AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 7 OF 2011.

A BILL

further to amend the Bombay Tenancy and Agricultural Lands Act, 1948.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

1. This Act may be called the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 2011. Short title.

Bom. LXVII of 1948. 2. In the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "the principal Act"), in section 32M, in sub-section (5), - Amendment of section 32M of Bom. LXVII of 1948.

- (1) in clause (b), for the words and figures "before the end of December, 1986", the words "before the date specified from time to time by notification in the *Official Gazette*, by the State Government in this regard" shall be substituted;

- (2) in the *Explanation*, for the figures, letters and word "32PP and 32PPP", the figures, letters and word "32PP, 32PPP and 32QQ" shall be substituted.

Amendment of
section 32PP
of Bom.
LXVII of
1948.

3. In the principal Act, in section 32PP, in sub-section (1C), in clause (b) and in sub-section (1D), in clause (b), for the words and figures "before the end of December, 1986", the words, brackets, letters and figures, "before the date specified under clause (b) of sub-section (5) of section 32M" shall be substituted.

Amendment of
section 32PPP of
Bom. LXVII of
1948.

4. In the principal Act, in section 32PPP, in sub-section (1), in clause (ii), in sub-clause (b), for the words and figures "before the end of December, 1986", the words, brackets, letters and figures "before the date specified under clause (b) of sub-section (5) of section 32M" shall be substituted.

Amendment of
section 32QQ
of Bom. LXVII
of 1948.

5. In the principal Act, in section 32QQ, in sub-section (1), in clauses (a) and (b), for the words and figures "before the end of December, 1986" wherever they occur, the words, brackets, letters and figures "before the date specified under clause (b) of sub-section (5) of section 32M" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The period specified in sections 32M, 32PP, 32PPP and 32QQ of the Bombay Tenancy and Agricultural Lands Act, 1948, for payment of purchase price by a tenant who holds land not exceeding four hectares (specified tenants) and for making an application by such specified tenant to the Agricultural Lands Tribunal for a declaration that the purchase of lands has not become ineffective was last extended upto the end of December, 1986 by the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1986 (Guj. 8 of 1986). As a considerable number of such specified tenants has still not been able to avail of the benefit of such extended period for one or the other reason, it is considered necessary to extend the aforesaid period further upto the date to be specified by the State Government by notification in the *Official Gazette* in this regard. This Bill seeks to amend sections 32M, 32PP, 32PPP and 32QQ of the said Act to achieve the aforesaid object.

ANANDIBEN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative power in following respect:-

Clause 2.- Clause (b) of sub-section (5) of section 32M proposed to be amended by this clause empowers the State Government to specify the date from time to time by notification in the Official Gazette, upto which the specified tenant who hold lands not exceeding four hectares may make payment of the purchase price and may make an application for a declaration that the purchase of the lands has not become ineffective.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

Gandhinagar,
Dated the 18th February, 2011.

ANANDIBEN PATEL.

By order and in the name of the Governor of Gujarat.

Gandhinagar,
Dated the 18th February, 2011.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Extra No. 8



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

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The following Bill is published with the consent of the Speaker given under the proviso to rule 1274 of the Gujarat Legislative Assembly Rules :-

THE BOMBAY PREVENTION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS (GUJARAT AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 8 OF 2011.

A BILL

*further to amend the Bombay Prevention of Fragmentation and Consolidation of
Holdings Act, 1947.*

It is hereby enacted in the Sixty-second year of the Republic of India as follows:-

1. (1) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings (Gujarat Amendment) Act, 2011. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of
section 2 of Bom.
LXII of 1947.

2. In the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (hereinafter referred to as "the principal Act"), in section 2, in clause (3A), for the words and figures "the Bombay Co-operative Societies Act, 1925", the words and figures "the Gujarat Co-operative Societies Act, 1961" shall be substituted.

Bom. LXII of
1947.

Bom. VII of
1925.
Guj. 10 of
1962.

Amendment of
section 7 of
Bom. LXII of
1947.

3. In the principal Act, in section 7,-

- (i) for sub-section (1) except the proviso, the following sub-section and the proviso shall be substituted, namely:-

"(1) Any fragment in respect of which a notice has been given under sub-section (2) of section 6 may be transferred to any agriculturalist as defined in relevant tenancy law:

Provided that if such fragment is transferred to the owner of a contiguous survey number or recognised sub-division of a survey number, then such fragment shall be consolidated:";

- (ii) in the existing proviso to sub-section (1), for the words "Provided that", the words "Provided further that" shall be substituted.

Amendment of
section 9 of
Bom. LXII of
1947.

4. In the principal Act, in section 9, for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) The owner of any land so transferred or partitioned shall be liable to pay the fine of rupees five thousand or ten per cent. of the market value of the land, whichever is more, for the urban area as the Collector may direct; and rupees two thousand or ten per cent. of the market value of the land, whichever is more, for the remaining area. Such fine shall be recoverable as an arrears of land revenue."

Amendment of
section 10 of
Bom. LXII of
1947.

5. In the principal Act, in section 10, in sub-section (1), the portion beginning with "but no such fragment" and ending with "payment of such compensation" shall be deleted.

Amendment of
section 14 of
Bom. LXII of
1947.

6. In the principal Act, in section 14, for the words "the owner of a contiguous survey number or recognized sub-division of a survey number", the words "any agriculturalist as defined in relevant tenancy law" shall be substituted.

Amendment of
section 27 of Bom.
LXII of 1947.

7. In the principal Act, in section 27, in clause (a), in sub-clause (i), for the words and figures "the Bombay Co-operative Societies Act, 1925", the

Bom. VII of
1925.

Guj. 10 of 1962. words and figures "the Gujarat Co-operative Societies Act, 1961" shall be substituted.

8. In the principal Act, for section 31, the following shall be substituted, namely:-
- Substitution of section 31 of Bom.LXII of 1947.
- "31. Notwithstanding anything contained in any law for the time being in force, no holding allotted under this Act shall be transferred contrary to the provisions of section 8 of this Act."
- Restrictions on alienation and sub-division of consolidated holdings.
9. In the principal Act, in section 37, in sub-section (2), clause (n) shall be deleted.
- Amendment of section 37 of Bom. LXII of 1947.

STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, the agriculturists are experiencing hardships in sale and purchase of fragmented land. The State Government had constituted a State Level Committee in that connection to examine the issues with regard to hardships being experienced by the agriculturalists and make recommendations to remove the same. The Committee in its report has made certain recommendations and suggested amendments in the provisions of the said Act. The State Government has considered the recommendations of the said Committee and accordingly proposes to amend certain provisions of the said Act as under.

1. It is proposed to amend sub-section (1) of section 7 so that the any fragment in respect of which a notice has been given under sub-section (2) of section 6 of the Act can be transferred to an agriculturalist. It is also provided that if such fragment is transferred to the owner of a contiguous survey number or recognised sub-division of a survey number, the same shall be consolidated. *Clause 3* of the Bill provides for the same.

2. Sub-section (2) of section 9 provides for the fine for transfer or partition of any land contrary to the provisions of the said Act. It is proposed to increase the existing amount of fine for such breach. Accordingly, the owner of any land so transferred or partitioned shall be liable to pay the fine of rupees five thousand or ten per cent. of the market value of the land, whichever is more, for the urban area, which may be directed by the Collector; and rupees two thousand or ten per cent. of the market value of the land, whichever is more, for the remaining area. *Clause 4* of the Bill provides for the same.

3. Section 31 provides for certain restrictions on alienation and sub-division of consolidated holdings. It is proposed to substitute this section so as to remove these restrictions relating to obtaining the permission of the Collector and it is provided that no holdings allotted under this Act shall be transferred contrary to the provisions of section 8. Thus, if the transfer of holdings allotted under the said Act does not create a fragment, the same can be transferred. *Clause 8* of the Bill provides for the same. Certain other consequential amendments in sections 2, 10, 14 and 27 are also made.

This Bill seeks to achieve the aforesaid object.

ANANDIBEN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in following respect :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 18th February, 2011.

ANANDIBEN PATEL.

By order and in the name of the Governor of Gujarat.

Gandhinagar,
Dated the 18th February, 2011.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was Introduced on the 3rd March, 2011 by Shri Shaileshbhai Parmar M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information

GUJARAT BILL NO. 10 OF 2010.

THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2010.

A BILL

Further to amend the Gujarat Co-operative Societies Act, 1961.

It is hereby enacted in the Sixty-one year of the Republic of India, as follows:-

1. (1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 2007. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the official gazette, appoint.
2. In the Gujarat Co-operative Societies Act, 1961, in section 74 B :- Amendment of Section 74(B) of Guj.X of 1962.
 - (1) in the marginal note, for the words "Schedule Castes and Tribes and small and marginal farmers" the words "Scheduled Castes, Tribes, small and marginal farmers and woman" shall be substituted.
 - (2) in sub-section (1)--
 - (i) for the words "two seats shall be reserved" the words "three seats shall be reserved" shall be substituted;
 - (ii) after clause (b), the following new clause shall be inserted, namely :-
"(c) one for the woman"

Guj.X of
1962.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Co-operative Societies Act, 1961 has been enacted for the purpose of providing for the orderly development of the Co-operative movement in the State. Under Section 74-B of this Act, a provision has been made for the reservation of two seats on committees of certain Societies for Scheduled Castes, Scheduled Tribes and from persons who are small farmers and marginal farmers. But there is no provision for the reservation for the women on such committees. Since it is the adopted policy of the Government (both State & Central) to encourage women to take part in the various developmental activities, it is considered necessary to reserve one seat for the women on the Committees of the Co-operative Societies.

Hence this Bill.

Gandhinagar
Dated : 25th March, 2010.

SHAILESHBHAI PARMAR
M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves following proposal for delegation of Legislative Power.

Clause 1 : Under sub-clause (2) of this clause power has been given to the State Government to bring the Act into force on such date as the State Government may, by notification in the Official Gazette, appoint.

The above mentioned delegation of legislative power is of a normal character.

Gandhinagar
Dated : 25th March, 2010.

SHAILESHBHAI PARMAR
M. L. A.

Gandhinagar
Dated the 3rd March, 2011.

D. M. PATEL.
Secretary,
Gujarat Legislative Assembly.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 3rd March, 2011
by Shri Dushyantbhai Patel M.L.A. is published under rule 127-A of the
Gujarat Legislative Assembly Rules for general information.

THE GUJARAT STATE SPORTSMEN ENCOURAGEMENT BILL, 2011

Gujarat Bill No. 11 of 2011

A BILL

*to provide assistance and encouragement to the leading sportsmen of the State
and matters connected there with.*

It is hereby enacted in the Sixtieth year of the republic of India as follows:

1. (1) This Act may be called the Gujarat State Sportsmen Encouragement Act, 2011

Short title, Extent
and
Commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires :-

Definition.

(a) "Prominent Sportsman or Promising Sportsman who has secured first, second and third place in any National or International level event of the Sports or Games.

(b) "Promising Sportsman" means a Sportsman who has secured first, second or third place in State level competition of the Sports or games

(c) "Sportsman" includes Sportswoman.

(d) "Government" means the Government of the state of Gujarat

Free hostel Facility. 3. Prominent Sportsman or Promising Sportsman may be provided free Lodging, Boarding and practice facility in the Sports Hostels established by the State Government.

Scholarship. 4. Prominent Sportsman shall be given Scholarship of Rupees five thousand for the year in which he secured first, second or third place.

Facility. 5. Prominent Sportsman and Promising Sportsman on application made in this behalf may be granted a loan without interest up to made on this behalf may be granted a loan without interest up to rupees ten thousand repayable in maximum fifty monthly installments.

Encouragement Amount. 6. Prominent Sportsman or Promising Sportsman who is called for selection trial for any international sports meet may be granted a sum of rupees ten thousand as encouragement amount.

Special Assistance Award 7. A Sportsman who has represented or selected for representing India in any international Sports meet may be granted a sum of Rupees 25,000/- as a special assistance award.

Free Residential plot. 8. A Prominent Sportsman or Promising Sportsman shall be allotted free residential plot measuring 200 sq.m. at the place where he ordinarily resides.

Power to Make rules. 9. (1) The State Government may make rules for carrying out purposes of this Act.

(2) In particular and without prejudice to the generality of foregoing power, such rules may be made to provide for all or any of the following matters, namely :-

(a) The authority by which and the manner in which free Lodging, Boarding and practice facility is to be provided.

(b) Rules regulating the award to be given to Prominent Sportsman and Promising Sportsman.

(c) Rules regulating grant of loans, encouragement award and special assistance award.

(3) All rule made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

STATEMENT OF OBJECTS AND REASONS.

Many promising and prominent sportsmen of the State of Gujarat are facing difficulties of finance. Such Sportsmen who are representing Gujarat State or India and earning glory for the State and National deserve encouragement as well as assistance from the State. The present facility like nominal scholarship is highly inadequate. No loan or scholarship is available to them. Adequate facility for practice, free lodging and boarding facility etc. Should be provided to the leading sportsmen. Government should help such sportsmen who earns glory for State and Nation and thereby put name of the State of Gujarat on the top of the medal tally of the National and International level sports meet.

Date : 2nd March, 2010.
Gandhinagar

DUSHYANTBHAI PATEL,
M.L.A.

FINANCIAL MEMORANDUM

The Bill involves expenditure in the following respects :-

- (1) Clause 4 the Bill provides for granting of scholarship of Rs.5000/-to prominent sportsman
- (2) Clause 5 of the Bill provides for loan facility to both prominent as well as Promising Sportsman.
- (3) Clause 6 of the Bill provides for granting a sum of Rs. 10,000/- as an encouragement amount.
- (4) Clause 7 of the Bill provides for granting a sum of Rs. 25,000/- as a special assistance award.

These provision if enacted and brought into operation, would involve an estimated annual expenditure of about Rs.25,00,000/- from the Consolidate Fund of the State, which would of recurring nature.

Date : 2nd March, 2010.
Gandhinagar

DUSHYANTBHAI PATEL,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects:-

- Clause 9:-* (I) Sub-clause (1) of this clause empowers the State Government to make rules for carrying out the purposes of this Act.
- (II) Sub-clause (2) of this clause empowers the State Government to make rules in all or any of the following matters:-
- (a) the authority by which and the manner in which the free lodging, boarding and practice facilities to be provided;
 - (b) Regulating the award to be given to prominent sportsman and promising sportsman;
 - (c) Regulating grant of loans, encouragement amount and special assistance awards;

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Date : 2nd March, 2010.
Gandhinagar

DUSHYANTBHAI PATEL,
M.L.A.

Gandhinagar.
Dated the 3rd March, 2011.

D. M. PATEL,
Secretary,
Gujarat Legislative Assembly.

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT PRIVATE UNIVERSITIES (AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 9 OF 2011.

A BILL

further to amend the Gujarat Private Universities Act, 2009.

WHEREAS the Auro International School of Hospitality Management, Surat, Bardoli Pradesh, Kelavani Mandal, Tarsadi, Dist. Surat, Shri Shamjibhai Harjibhai Talaviya Charitable Trust, Rajkot and the Puri Foundation for Education in India, Gandhinagar had applied to the State Government under the provisions of the Gujarat Private Universities Act, 2009 to establish Private Universities in the State;

Guj. 8 of 2009.

AND WHEREAS the said applications have been scrutinised by the Scrutiny Committee and on the report of Scrutiny Committee the State Government has issued the letter of intent to the respective sponsoring bodies for establishment of the Private University;

AND WHEREAS the State Government is satisfied that the sponsoring bodies have complied with the conditions of letter of intent as provided in section 10 of the said Act and has also established the Endowment Fund as per the letter of intent;

NOW, THEREFORE, the Government of Gujarat, in accordance with the provisions of section 10 of the said Act, establishes the institutions specified in column 2 of the Schedule as Private University of the aforesaid sponsoring bodies, by the name, location and jurisdiction as specified in column 4 of the Schedule.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

Short title and commencement.

1. (1) This Act may be called the Gujarat Private Universities (Amendment) Act, 2011.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 3 of Guj. 8 of 2009.

2. In the Gujarat Private Universities Act, 2009 (hereinafter referred to as "the principal Act"), in section 3, in sub-section (5),-

(a) for the words "before the commencement of this Act", the words, brackets and figure "before the establishment of the University under sub-section (1)" shall be substituted;

(b) for the words "the date of commencement of this Act", the words "the date of establishment of such University" shall be substituted.

Amendment of section 45 of Guj. 8 of 2009.

3. In the principal Act, in section 45, for the words "before the commencement of this Act", the words, brackets and figures "before the establishment of the University under sub-section (1) of section 3" shall be substituted.

Amendment of Schedule to Guj. 8 of 2009.

4. In the principal Act, in the Schedule, after entry at serial No. 4, the following entries shall be inserted, namely:-

Sr. No.	Name and Address of the Private University.	Details of Registration and Registration Number	Sponsoring Body.
1.	2.	3.	4.
"5.	Auro University of Hospitality and Management, Surat.	U-80302-GJ2007NPL051322-2007-2008 Registrar of Companies, Gujarat, (under section 25 of the Companies Act, 1956).	Auro International School of Hospitality Management, 1 st floor, Ambika Niketan, Athwa Lines, Surat-395 007.

Sr. No.	Name and Address of the Private University.	Details of Registration and Registration Number	Sponsoring Body.
1.	2.	3.	4.
6.	UKA Tarsadia University, Bardoli.	Trust Registration – Surat, No. F.99, Surat (under the Bombay Public Trusts Act, 1950).	Bardoli Pradesh Kelavani Mandal, Gopal Vidyanagar, Bardoli – Mahuva Road, Village Tarsadi, Taluka Mahuva, District Surat-394 350.
7.	R.K. University, Rajkot.	Trust Registration – Rajkot, No. E-6360, Rajkot (under the Bombay Public Trusts Act, 1950).	Shri Shamjibhai Harjibhai Talaviya Charitable Trust, Bhavnagar Highway, Kasturbadham, Rajkot-360 020.
8.	Institute of Advanced Research, Gandhinagar.	Trust Registration – Ahmedabad No. E/13374/Amadavad (under the Bombay Public Trusts Act, 1950).	The Puri Foundation for Education in India, Block No. 2, 1 st floor, Udyog Bhavan, Sector-11, Gandhinagar.”.

STATEMENT OF OBJECTS AND REASONS

The State Government considers it necessary to promote Private Universities on self-financed basis being run by trusts or private bodies registered under the relevant laws to provide for qualitative and industry relevant higher education of international standard for which the Gujarat Private Universities Act, 2009 has been enacted, where under few Private Universities were established and incorporated.

The State Government has now received proposals from different private sponsoring bodies for establishment of Private Universities in the State. After due consideration by the Government, a few of them have been found eligible and it is decided to confer a status of Private University to the educational institutions of the sponsoring bodies. The consequential amendments are also made in sections 3 and 45 of the said Act.

This Bill seeks to amend the said Act to achieve the aforesaid object.

RAMANLAL VORA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in following respect :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

RAMANLAL VORA.

Gandhinagar,
Dated the 1st March, 2011.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 4th March, 2011.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT TENANCY AND AGRICULTURAL LANDS LAWS (AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 12 OF 2011.

A BILL

further to amend the Bombay Tenancy and Agricultural Lands Act, 1948, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 and the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Act, 2011. Short title.

- Amendment of section 63 of Bom. LXVII of 1948. 2. In the Bombay Tenancy and Agricultural Lands Act, 1948, in Bom. LXVII of 1948. section 63, after sub-section (1), the following sub-section shall be inserted, namely:-

“(1A) The State Government may, by notification in the *Official Gazette*, exempt from the provisions of sub-section (1), for the transfer of any agricultural land to any public trust established for the charitable purpose and which is non-profitable in nature, for the use of such land in the field of health and education, subject to such conditions as may be specified therein.”.

- Amendment of section 54 of Sau. Ord. XLI of 1949. 3. In the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949, in section 54, after sub-section (1), Sau. Ord. XLI of 1949. the following sub-section shall be inserted, namely:-

“(1A) The State Government may, by notification in the *Official Gazette*, exempt from the provisions of sub-section (1), for the transfer of any agricultural land to any public trust established for the charitable purpose and which is non-profitable in nature, for the use of such land in the field of health and education, subject to such conditions as may be specified therein.”.

- Amendment of section 89 of Bom. XCIX of 1958. 4. In the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958, in section 89, after sub-section (1), Bom. XCIX of 1958. the following sub-section shall be inserted, namely:-

“(1A) The State Government may, by notification in the *Official Gazette*, exempt from the provisions of sub-section (1), for the transfer of any agricultural land to any public trust established for the charitable purpose and which is non-profitable in nature, for the use of such land in the field of health and education, subject to such conditions as may be specified therein.”.

SATATEMENT OF OBJECTS AND REASONS

At present there are three different Tenancy Laws in operation in the State. In the Bombay area of the State, the Bombay Tenancy and Agricultural Lands Act, 1948 is in force, in the Kutch area of the State, the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 is in force, whereas in the Saurashtra area of the State, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949, is in force. As provided under all the three said Acts, there is prohibition against the sale of agricultural land by an Agriculturist to a non-agriculturist without the prior permission of the Collector. With a view to encouraging the public trusts established for the charitable purpose and which are non-profitable in nature, to use the land in the field of health and education. It is, therefore, proposed to amend the said three Acts so as to empower the State Government to exempt, by notification in the *Official Gazette*, the transfer of agricultural land for the use of such land in the field of health and education by such public charitable trusts, subject to such conditions as may be specified therein.

This Bill seeks to amend the said three tenancy Acts to achieve the aforesaid object.

ANANDIBEN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 2.- New sub-section (1A) proposed to be inserted in section 63 by this clause empowers the State Government, by notification in the *Official Gazette*, to exempt from the provisions of sub-section (1) of section 63 of the *Bombay Tenancy and Agricultural Lands Act, 1948*, for the transfer of agricultural land to any public trust established for the charitable purpose and which is non-profitable in nature, for the use of such land in the field of health and education, subject to such conditions as may be specified therein.

Clause 3.- New sub-section (1A) proposed to be inserted in section 54 by this clause empowers the State Government to exempt the provisions of sub-section (1) of section 54 of the *Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949*, for the transfer of agricultural land to any public trust established for the charitable purpose and which is non-profitable in nature, for the use of such land in the field of health and education, subject to such conditions as may be specified therein.

Clause 4.- New sub-section (1A) proposed to be inserted in section 89 by this clause empowers the State Government to exempt the provisions of sub-section (1) of section 89 of the *Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958* for the transfer of agricultural land to any public trust established for the charitable purpose and which is non-profitable in nature, for the use of such land in the field of health and education, subject to such conditions as may be specified therein.

The delegation of legislative powers as proposed is necessary and is of a normal character.

ANANDIBEN PATEL.

Gandhinagar,
Dated the 7th March, 2011.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 7th March, 2011.

C.J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT (SUPPLEMENTARY) APPROPRIATION BILL, 2011.

GUJARAT BILL NO. 13 OF 2011.

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2011.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 2011. **Short title.**

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of seven thousand one hundred fifty-two crores, seventy lakhs, two thousand rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 2011, in respect of the services and purposes specified in column 2 of the Schedule. **Issue of Rs. 71,52,70,02,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 2010-2011.**

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. **Appropriation.**

SCHEDULE
(See sections 2 and 3)

Demand No. of Vote/ Appropriation	Services and Purposes	Revenue / Capital	Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
1	Agriculture and Co-operation Department	Revenue	13902000	0	13902000
2	Agriculture	Revenue	1146761000	84000	1146845000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	49996000	0	49996000
4	Animal Husbandry and Dairy Development	Revenue	574871000	0	574871000
5	Co-operation	Revenue	99100000	0	99100000
6	Fisheries	Revenue	0	38000	38000
7	Other expenditure pertaining to Agriculture and Co-operation Department	Revenue	0	45000	45000
8	Education Department	Revenue	7215000	0	7215000
9	Education	Revenue	27218851000	63814000	27282665000
		Capital	345000000	0	345000000
10	Other expenditure pertaining to Education Department	Revenue	4529000	0	4529000
13	Energy Projects	Capital	3292498000	0	3292498000
14	Other expenditure pertaining to Energy and Petro-chemicals Department	Capital	2000000000	0	2000000000
15	Finance Department	Capital	1000	0	1000
16	Tax Collection Charges (Finance Department)	Revenue	13020000	0	13020000
17	Treasury and Accounts Administration	Revenue	54294000	0	54294000
18	Pensions and other Retirement Benefits	Revenue	9850000000	0	9850000000
19	Other expenditure pertaining to Finance Department	Revenue	1000	0	1000
20	Repayment of Debt pertaining to Finance Department and its services	Revenue	0	7000	7000
21	Food, Civil Supplies and Consumer Affairs Department	Revenue	34307000	0	34307000
22	Civil Supplies	Revenue	2000	0	2000
23	Food	Revenue	160320000	0	160320000
25	Forest and Environment Department	Revenue	4344000	0	4344000
26	Forest	Revenue	216494000	4136000	220630000
		Capital	2000	0	2000
29	Governor	Revenue	0	3315000	3315000
30	Council of Ministers	Revenue	5700000	0	5700000
31	Election	Revenue	278425000	0	278425000

1	2		3		
33	General Administration Department	Revenue	28398000	0	28398000
34	Economic Advice and Statistics	Revenue	438893000	0	438893000
35	Other expenditure pertaining to General Administration Department	Revenue	21390000	1000	21391000
36	State Legislature	Revenue	126000	131000	257000
38	Health and Family Welfare Department	Revenue	11762000	0	11762000
39	Medical and Public Health	Revenue	3081090000	11256000	3092346000
		Capital	20000000	0	20000000
40	Family Welfare	Revenue	167159000	0	167159000
41	Other expenditure pertaining to Health and Family Welfare Department	Revenue	1406000	0	1406000
42	Home Department	Revenue	12571000	0	12571000
43	Police	Revenue	2353458000	3000	2353461000
44	Jails	Revenue	121240000	100000	121340000
45	State Excise	Revenue	2137000	0	2137000
46	Other expenditure pertaining to Home Department.	Revenue	192490000	6397000	198887000
		Capital	579406000	0	579406000
47	Industries and Mines Department	Revenue	12276000	0	12276000
48	Stationery and Printing	Revenue	18255000	0	18255000
49	Industries	Revenue	99607000	0	99607000
50	Mines and Minerals	Revenue	26537000	0	26537000
51	Tourism	Revenue	281000	0	281000
52	Other expenditure pertaining to Industries and Mines Department	Revenue	17100000	0	17100000
53	Information and Broadcasting Department	Revenue	4889000	0	4889000
54	Information and Publicity	Revenue	30432000	0	30432000
55	Other expenditure pertaining to Information and Broadcasting Department	Revenue	8297000	0	8297000
57	Labour and Employment	Revenue	747061000	200000	747261000
60	Administration of Justice	Revenue	1661766000	0	1661766000
61	Other expenditure pertaining to Legal Department	Revenue	87979000	0	87979000
62	Legislative and Parliamentary Affairs Department	Revenue	4773000	0	4773000
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	130000	0	130000
64	Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	41053000	0	41053000
66	Irrigation and Soil Conservation	Revenue	908947000	2506000	911453000
		Capital	6000	199088000	199094000
67	Water Supply	Capital	1000	0	1000

1	2	3	4	5	6
68	Other expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	0	495255000	495255000
69	Panchayat, Rural Housing and Rural Development Department	Revenue	10347000	0	10347000
70	Community Development	Revenue	1544208000	0	1544208000
71	Rural Housing and Rural Development	Revenue	178224000	21000000	199224000
72	Compensation and Assignments	Revenue	463755000	0	463755000
73	Other expenditure pertaining to Panchayat, Rural Housing and Rural Development Department	Revenue	952468000	0	952468000
74	Transport	Revenue	142360000	0	142360000
75	Other expenditure pertaining to Ports and Transport Department	Revenue	209462000	0	209462000
		Capital	131000	0	131000
76	Revenue Department	Revenue	27743000	0	27743000
77	Tax Collection Charges (Revenue Department)	Revenue	1000	5186000	5187000
78	District Administration	Revenue	524522000	0	524522000
79	Relief on account of Natural Calamities	Revenue	815117000	0	815117000
80	Dangs District	Revenue	69560000	0	69560000
81	Compensation and Assignments	Revenue	0	76000	76000
82	Other expenditure pertaining to Revenue Department	Revenue	847977000	0	847977000
83	Roads and Buildings Department	Revenue	21000000	0	21000000
84	Non-Residential Buildings	Revenue	924947000	1000	924948000
		Capital	1000	261000	262000
85	Residential Buildings	Revenue	404147000	94000	404241000
86	Roads and Bridges	Revenue	3184568000	15513000	3200081000
		Capital	633627000	19687000	653314000
87	Gujarat Capital Construction Scheme	Revenue	33207000	0	33207000
		Capital	12500000	0	12500000
88	Other expenditure pertaining to Roads and Buildings Department	Revenue	28300000	69641000	97941000
89	Science and Technology Department	Revenue	61887000	0	61887000
90	Other expenditure pertaining to Science and Technology Department	Capital	1000000	0	1000000
91	Social Justice and Empowerment Department	Revenue	5841000	0	5841000
92	Social Security and Welfare	Revenue	114240000	0	114240000
		Capital	20503000	0	20503000
93	Welfare of Scheduled Tribes	Revenue	779496000	0	779496000
95	Scheduled Castes Sub-Plan	Revenue	22932000	0	22932000
96	Tribal Area Sub-Plan	Revenue	1626726000	18290000	1645016000
		Capital	1000	6763000	6764000
97	Sports, Youth and Cultural Activities Department	Revenue	3343000	0	3343000

1	2		3		
98	Youth Services and Cultural Activities	Revenue	30474000	0	30474000
101	Urban Housing	Revenue	0	227500000	227500000
102	Urban Development	Revenue	3000	0	3000
		Capital	1000	0	1000
103	Compensation, Assignments and Tax Collection Charges	Revenue	250000000	0	250000000
105	Women and Child Development Department	Revenue	834000	0	834000
106	Other expenditure pertaining to Women and Child Development Department	Revenue	340612000	0	340612000
	Total :	Revenue	63451806000	944589000	64396395000
		Capital	6904808000	225799000	7130607000
	Grand Total :		70356614000	1170388000	71527002000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty-first day of March, 2011.

The amounts are shown below:-

Rs.

(a) Revenue Expenditure	64,39,63,95,000
(b) Capital Expenditure	7,13,06,07,000
Total:-	<u>71,52,70,02,000</u>

Gandhinagar,
Dated the 8th March, 2011.

VAJUBHAI VALA.

By Order and in the name of the Governor of Gujarat,

Gandhinagar.
Dated the 8th March, 2011.

C. J. GOTHI,
Secretary,
Government of Gujarat,
Legislative and Parlimantary
Affairs Department.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LII]

WEDNESDAY, MARCH 9, 2011/PHALGUNA 18, 1932

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART V

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE SWARNIM GUJARAT SPORTS UNIVERSITY BILL, 2011.

GUJARAT BILL NO. 14 OF 2011.

A BILL

to establish and incorporate a teaching and affiliating University to be known as the Swarnim Gujarat Sports University in the State of Gujarat and for the matters connected therewith or incidental thereto.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Swarnim Gujarat Sports University Act, 2011. Short title, extent and commencement.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires,-

- (1) "Academic Council" means the Academic Council of the University constituted under section 19;
- (2) "affiliated college" means a college or institution affiliated to the University under section 27;
- (3) "Board" means the Board of Governors of the University constituted under section 16;
- (4) "Chairman" means the Chairman of the Board appointed under section 11;
- (5) "college" means a college or an institution teaching any of the courses leading to a diploma or a degree;
- (6) "Deans" means the Deans of the University appointed under section 25;
- (7) "Directors" means the Directors of the University appointed under section 24;
- (8) "Finance Committee" means the Finance Committee of the University constituted under section 21;
- (9) "Head Coach" means the Head Coach of the University appointed under section 26;
- (10) "prescribed" means prescribed by the regulations;
- (11) "Registrar" means the Registrar of the University appointed under section 23;
- (12) "regulations" means the regulations of the University made under section 45;
- (13) "teacher" means a person appointed or recognised as such by the University for the purpose of imparting instructions;
- (14) "Vice-Chancellor" means the Vice-Chancellor of the University appointed under section 9;
- (15) "University" means the Swarnim Gujarat Sports University established and incorporated under section 3;
- (16) "University College" means a college which the University may establish or run under this Act or a college transferred to and run by the University;

- (17) "University Department" means any department established and maintained by the University for diploma, degree or post-graduate studies and research.

CHAPTER II

UNIVERSITY

3. (1) There shall be established a University by the name of the "Swarnim Gujarat Sports University". Establishment and incorporation of University.
- (2) The Vice-Chancellor, the Chairman, the Board, the Academic Council, the Directors, the Deans, the Registrar and all other persons who may hereafter become such officers or members so long as they continue to hold such office or membership, shall constitute a body corporate by the name of the "Swarnim Gujarat Sports University".
- (3) The University shall be a body corporate by the name as aforesaid, having perpetual succession and common seal with power, subject to the provisions of this Act, to acquire and hold property, to contract and shall, by the said name, sue or be sued.
- (4) In all suits and other legal proceedings by or against the University, the pleadings shall be signed and verified by the Registrar and all processes in such proceedings shall be issued to, and served on the Registrar.
- (5) The University shall function as an affiliating University and it shall affiliate any other college or institution for the conferment of degrees, diplomas or grant certificates to the students admitted therein.
4. The headquarters of the University shall be at such place as the State Government may, by notification in the *Official Gazette*, specify. Headquarters of University.
5. The objects of the University shall be as follows, namely:- Objects of University.
- (i) to develop the knowledge of physical education and sports sciences, providing specially designed academic training programmes in various areas of physical education and sports sciences and also advance technologies of sports training which includes theoretical inputs and practical training to generate expertise and strengthening physical education and sports training programme to promote sports performances;
 - (ii) to establish centres and institutions of excellence for imparting state of the art educational training and research in the fields of physical education and sports sciences, sports technology and high performance training for all sports and games;
 - (iii) to generate capabilities for the development of knowledge, skills and competences at various levels in the field of physical education and sports sciences, sports technology and high performance training for all sports and games;

- (iv) to generate capabilities to provide infrastructure of international standard for education, training and research in the areas related to physical education and sports sciences, sports technology and high performance training for all sports and games;
- (v) to prepare highly qualified leaders in the field of physical education and sports sciences, sports technology and high performance training for all sports and games;
- (vi) to serve as a Centre of Excellence for the elite sportsmen of all sports and games and innovation in physical education and to carry out, endorse and propagate research;
- (vii) to function as a leading resource centre for knowledge and development in the area of physical education and sports sciences, sports technology and high performance training for all sports and games;
- (viii) to provide international collaboration in the fields of physical education and sports sciences, sports technology and high performance training for all sports and games;
- (ix) to establish close linkage with schools, colleges, sports and recreation clubs, sports associations and international federations for the purpose of teaching, training and research in physical education and sports sciences, sports technology and high performance training for all sports and games;
- (x) such other objects, not inconsistent with the provisions of this Act which the State Government may, on an application by the University, by notification in the *Official Gazette*, specify in this behalf.

University open to all irrespective of sex, religion, class, creed or opinion. 6. (1) No person shall be excluded from any office of the University or from membership of any of its authorities, bodies or committees, or from admission to any degree, diploma or other academic distinction or course of study on the sole ground of sex, race, creed, cast, class, place of birth, religious belief or political or other opinion.

(2) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed, cast, class, place of birth, religious belief or profession or political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma or other academic distinction or to enjoy or exercise any privilege of the University or any benefaction thereof.

7. Subject to the provisions of this Act, the University shall exercise the following powers and perform the following functions, namely :-

Powers and
functions of
University.

- (i) to administer and manage the University and the University colleges and to establish such institutes and centre for research, education and instructions as are necessary for the furtherance of the objects of the University;
- (ii) to provide for instruction, training and research in such branches of knowledge or learning pertaining to the physical education and sports sciences, sports technology and high performance training for all sports and games;
- (iii) to conduct innovative experiments in new methods and technologies in the field of sports sciences, technology and management in order to achieve scientific sports training system for all sports and games and international standards of such physical education, sports training and research in sports sciences;
- (iv) to prescribe courses and curricula and provide for flexibility in the education system and delivery of methodologies including electronic and distance learning;
- (v) to hold examinations and confer degrees, diplomas, or grant certificates and other academic distinctions or titles on persons subject to such conditions as the University may determine, and to withdraw or cancel any such degrees, diplomas, certificates or other academic distinctions or titles in the manner as may be prescribed;
- (vi) to confer honorary degrees or other distinctions in the manner as may be prescribed;
- (vii) to establish such special centres, specialized study centres or other units for research and development as are, in the opinion of the University, necessary for the furtherance of its objects;
- (viii) to provide for printing, reproduction and publication of research and other work and to organise exhibitions, workshops, seminars, symposia, conferences, competitions, etc;
- (ix) to sponsor and undertake research in all aspects of physical education and sports sciences, sports technology, allied areas and high performance training for all sports and games;
- (x) to collaborate or associate with any educational institution with like or similar objects;

- (xi) to develop and maintain linkages with educational or other institutions in any part of the world having objects wholly or partially similar to those of the University, through exchange of teachers, students and scholars and generally in such manner as may be conducive to their common objects;
- (xii) to develop and maintain relationships with teachers, coaches, researchers and experts in any part of the world for achieving the objects of the University;
- (xiii) to regulate the expenditure, manage the finance and to maintain accounts of the University;
- (xiv) to receive grants, subventions, subscriptions, donations and gifts for the purposes of the University and consistent with the objects for which the University is established and to enter into any agreement with the Central Government, the State Government, the University Grants Commission or other authorities or bodies for receiving any grants;
- (xv) to receive funds from the industries or from any other sources as gifts, donations, benefactions or bequests by transfer of movable and immovable properties for the purposes and objects of the University;
- (xvi) to establish, maintain and manage sports infrastructure halls and hostels for the residence of students and accommodation for faculties, officers and employees of the University;
- (xvii) to supervise and control the residence and to regulate the discipline among the students of the University and to make arrangements for promoting their health and general welfare and cultural activities;
- (xviii) to fix, demand and receive or recover fees and such other charges as may be prescribed;
- (xix) to institute and award fellowships, scholarships, prizes, medals and other awards;
- (xx) to purchase or to take on lease any land or building or sports complex or sports infrastructure and scientific sports research equipments or indoor stadium or works which may be necessary or convenient for the purpose of the University on such terms and conditions as it may think fit and proper and to construct, alter and maintain any such buildings or works;
- (xxi) to sell, exchange, lease or otherwise dispose of all or any portion of the properties of the University, movable or

immovable, on such terms as it may think fit, consistent with the interest, activities and objects of the University, after taking prior permission of the State Government;

- (xxii) to draw and accept, to make and endorse, to discount and negotiate Government promissory notes and other promissory notes, bills of exchange, cheques or other negotiable instruments;
- (xxiii) to raise and borrow moneys on bonds, mortgages, promissory notes or other obligations or securities founded or based upon all or any of the properties and assets of the University or without any securities and upon such terms and conditions as it may think fit and to pay out of the funds of the University, all expenses incidental to the raising of moneys, to repay money borrowed, after taking prior permission of the State Government;
- (xxiv) to invest the funds of the University in accordance with the provisions of the Act;
- (xxv) to execute conveyances regarding transfers, mortgages, leases, licenses, agreements and other conveyances in respect of the property, movable or immovable including Government securities belonging to the University or to be acquired for the purpose of the University, after taking prior permission of the State Government;
- (xxvi) to admit the students for the courses offered by the University in the prescribed manner;
- (xxvii) to create academic, technical, administrative, ministerial and other posts and to make appointments thereto;
- (xxviii) to regulate and enforce discipline among the employees of the University and to provide for such disciplinary measures as may be prescribed;
- (xxix) to institute professorships, associate professorships, assistant professorships, readerships, lectureships, endowed professorship, honorary professorships, adjunct professorships, emeritus professorships, of different sports and games and any other teaching, academic or research posts for sports sciences and to prescribe qualifications for them;
- (xxx) to appoint persons as Directors, Deans, Professors, Associate Professors, Assistant Professors, Readers, Lecturers, Head Coaches, Coaches, Trainers, Adjunct Professors, Registrar, or otherwise as teachers and researchers of the University;

(xxxi) subject to the provisions of this Act and the regulations, any officer or authority of the University may, by order, delegate his or its powers (except the power to make regulations) to any other officer or authority under his or its control and subject to the condition that the ultimate responsibility for the exercise of the powers so delegated shall continue to rest in the officer or authority delegating them;

(xxxii) to do all such other acts and things as the University may consider necessary, conducive or incidental to the attainment or enlargement of all or any of the objects of the University.

Jurisdiction of University. 8. (1) The jurisdiction of the University shall extend to the whole of the State of Gujarat.

(2) Notwithstanding anything contained in any other State laws for the time being in force, the colleges or institutions as may be specified by the State Government, by notification in the *Official Gazette*, imparting physical education and sport sciences subjects and affiliated to any other University established by law of the State Legislature shall cease to be affiliated from the University to which such colleges or institutions have been affiliated and such colleges or institutions shall be deemed to be affiliated to the University from such date as specified in the said notification.

Vice-Chancellor. 9. (1) The Vice-Chancellor of the University shall be appointed by the State Government from amongst three persons recommended under sub-section (4) by a Committee appointed for the purpose under sub-section (3).

(2) The person to be appointed as the Vice-Chancellor shall,-

- (i) be a renowned physical educationist and sports person; or
- (ii) be a researcher having out-standing published research work in reputed National or International Journals and have obtained the doctorate degree in the field of Physical Education, or
- (iii) be eminent educationalist or a person with vast experience in administration; and
- (iv) not have attained the age of sixty-five years on the date of nomination.

(3) (a) The State Government, for the purpose of sub-section (1) shall appoint a Committee which shall consist of three members, one of which shall be a renowned sports personality and another shall be a senior Government Officer, either retired or in service or a Vice-Chancellor, acting or retired;

(b) The State Government shall appoint one of the members of the Committee as its Chairperson.

(4) The Committee so appointed under sub-section (3) shall within such time and in such manner as directed by the State Government, select three persons who possess the qualifications mentioned in sub-section (2) whom it considers fit for being appointed as the Vice-Chancellor and shall recommend to the State Government, the names of the persons so selected together with such other particulars as it may deem necessary.

(5) The Vice-Chancellor shall hold office for the period of three years and shall be eligible for re-appointment for a further period of three years :

Provided that a person shall not hold office of the Vice-Chancellor after he attains the age of sixty-five years.

(6) The emoluments and other terms and conditions of the service of the Vice-Chancellor shall be such as may be determined by the State Government.

(7) The Vice-Chancellor may resign from his office by writing under his hand addressed to the State Government and such resignation shall take effect from the date of acceptance by the State Government.

(8) Whenever a temporary vacancy occurs in the office of Vice-Chancellor and it cannot be conveniently and expeditiously filled up in accordance with the provisions of sub-section (1), the State Government may direct any of the officers of the University to carry on the current duties of the office of the Vice-Chancellor.

(9) A person shall be disqualified for being appointed, or for being a Vice-Chancellor -

- (i) if he is a member of the Parliament, or of any State Legislature or of any local authority, or
- (ii) if he is a member of a political party, or
- (iii) if he is or any time has been adjudged an insolvent or he has suspended payment of his debts or has compounded with his creditors, or
- (iv) if he is of unsound mind or stands so declared by the competent court, or
- (v) if he is or has been convicted of an offence, which in the opinion of the State Government, involves moral turpitude.

10. (1) The Vice-Chancellor shall have, subject to the provisions of this Act, power to cause an inspection or review to be made by such person or persons as he may direct, of the University, its buildings, hostels, libraries, equipments and systems and processes and of any institution or centre maintained by the University, and also of the

**Powers and
duties of Vice-
Chancellor.**

examinations, teaching, research and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration, academic affairs and finances of the University.

(2) Without prejudice to the generality of the foregoing provisions, the Vice-Chancellor shall –

- (i) be the chief executive and academic officer of the University. He shall preside over the meetings of the Academic Council;
- (ii) ensure implementation of the decisions of the authorities of the University;
- (iii) be responsible for imparting of instructions and maintenance of discipline in the University; and
- (iv) exercise such other powers and perform such other duties as may be assigned to him by or under this Act or the regulations or as may be delegated to him by the Board.

(3) Where any matter is of urgent nature requiring immediate action and the same cannot be immediately dealt with by the authority or body of the University empowered under this Act to deal with it, the Vice-Chancellor may take such action as he may deem fit and shall forthwith inform the action so taken by him to the authority or body of the University who or which, in the ordinary course, would have dealt with the matter:

Provided that if such authority or other body is of the opinion that such action ought not to have been taken by the Vice-Chancellor, it may refer the matter to the Board which may either confirm the action taken by the Vice-Chancellor or annul the same or modify it in such manner as it thinks fit, and thereupon the action shall cease to have effect or, as the case may be, shall take effect in such modified form so however such modification or annulment shall be without prejudice to the validity of anything previously done by or under the order of the Vice-Chancellor.

(4) Where the exercise of the powers by the Vice-Chancellor under sub-section (3) involves the appointment of any person, such appointment shall be confirmed by the competent authority empowered to approve such appointment in accordance with the provisions of this Act and the regulations, not later than six months from the date of order of the Vice-Chancellor, otherwise such appointment shall cease to have effect on the expiration of a period of six months from the date of order of the Vice-Chancellor.

Chairman. 11. (1) There shall be a Chairman of the Board who shall be appointed by the State Government.

(2) The qualifications for appointment and the terms and conditions of the Chairman shall be such as may be determined by the State Government.

12. (1) The Chairman shall preside at the meetings of the Board. **Powers of Chairman of Board.**

(2) The Chairman shall exercise such other powers and perform such other functions as may be assigned to him by or under this Act or the regulations.

13. (1) The State Government shall have the power to cause an inspection to be made by such person or persons as it may direct, of the University, its buildings, libraries, laboratories, museum, workshop, and equipments of any college, institution or centre maintained, or affiliated to the University, and also of the teaching, and other work conducted by the University and of the conduct of examination held by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the administration, academic affairs and finances of the University. **Inspection and Inquiry.**

(2) The State Government shall in every case give notice to the University of its intention to cause an inspection or an inquiry to be made and the University shall be entitled to be represented thereat.

(3) The State Government shall communicate to the University its views with reference to results of such inspection or inquiry and advise the University for the action to be taken in the matter.

(4) Where the University does not, within the reasonable time, take action to the satisfaction of the State Government, the State Government may issue such directions to the University as it thinks fit and the University shall comply with such directions.

CHAPTER III AUTHORITIES AND OFFICERS OF UNIVERSITY

14. The following shall be the authorities of the University, namely:- **Authorities of University.**

- (i) the Board of Governors;
- (ii) the Academic Council;
- (iii) the Finance Committee; and
- (iv) such other authorities as may be declared by regulations to be the authorities of the University.

15. The following shall be the officers of the University, namely:- **Officers of University.**

- (i) the Chairman;
- (ii) the Vice-Chancellor;
- (iii) the Directors;
- (iv) the Deans;
- (v) the Registrar; and

- (vi) such other persons in the service of the University as may be declared by regulations, to be the officers of the University.

Board of 16. (1) The Board of Governors of the University shall consist of the Governors. following members, namely:-

- (i) the Chairman;
- (ii) the Vice-Chancellor;
- (iii) one Director of the University, by rotation, to be nominated by the Vice-Chancellor;
- (iv) one Head Coach by rotation, to be nominated by the Vice-Chancellor;
- (v) four persons to be nominated by the State Government.

(2) The Registrar shall be the Secretary of the Board.

Powers and 17. (1) Subject to the provisions of this Act, the Board shall be functions of responsible for the general superintendence, direction and the control of Board. the affairs of the University and shall exercise all the powers of the University, and shall have the power to review the acts of the Academic Council, the Finance Committee and other committees or authorities of the University.

(2) Without prejudice to the provisions of sub-section (1), the Board shall have the following powers and functions, namely:-

- (i) to take decisions on question of policy relating to the administration and working of the University;
- (ii) to institute courses of study at the University;
- (iii) to make regulations;
- (iv) to consider and approve the annual report and the annual budget of the University for every financial year;
- (v) to invest moneys and funds of the University and to take decision on the recommendations of the Finance Committee;
- (vi) to publish or finance the publication of studies, books, periodicals, reports and other literature from time to time and to sell or arrange for the sale as it may deem fit;
- (vii) to create or abolish posts of teachers, officers and employees of the University;
- (viii) to appoint such committees as it considers necessary for the exercise of its powers and performance of its duties under this Act;
- (ix) to delegate any of its power to the Directors, Deans, Registrar, Head Coaches or any other officer, employee or authority of the University or to a Committee appointed by it; and
- (x) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by or

under this Act or the regulations, and such other powers for achieving the objects of the University.

18. (1) Save as otherwise provided in this section, the term of a member of the Board nominated under clauses (iii), (iv) and (v) of sub-section (1) of section 16 shall be three years from the date of his nomination. **Term of office of members of Board.**

(2) A member nominated under clauses (iii), (iv) and (v) of sub-section (1) of section 16 may resign from his office by writing under his hand address to the Chairman and his resignation shall take effect from the date it is accepted by the Chairman.

19. (1) The Academic Council of the University shall consist of the following members, namely:- **Academic Council.**

- (i) the Vice-Chancellor, who shall be the Chairman of the Academic Council;
- (ii) two academicians or professionals, to be nominated by the Board;
- (iii) two academicians or professionals in the field of physical education and sports sciences, to be nominated by the Board;
- (iv) the Directors of the University;
- (v) one Dean of the University, by rotation, to be nominated by the Vice-Chancellor;
- (vi) one Head Coach, by rotation, to be nominated by the Vice-Chancellor; and
- (vii) one professor from each faculty or University department, by rotation, to be nominated by the Vice-Chancellor.

(2) The Registrar shall be the Secretary of the Council.

(3) The term of office of the members nominated under clauses (ii), (iii), (v), (vi) and (vii) of sub-section (1) shall be three years.

20. Subject to the provisions of this Act and the regulations, the Academic Council shall exercise the following powers and perform the following functions, namely:- **Powers and functions of Academic Council.**

- (i) to exercise control over the academic policies of the University and be responsible for the maintenance and improvement of standards of instruction, education and evaluation in the University;
- (ii) to consider matters of general academic interest either on its own initiative or on a reference from the faculty of the University or the Board and to take appropriate action thereon;

- (iii) to recommend to the Board, such regulations as are consistent with this Act regarding the academic functioning of the University including discipline among students; and
- (iv) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by the regulations.

Finance Committee. 21. (1) The Finance Committee shall consist of the following members, namely:-

- (i) the Chairman of the Board, who shall be the Chairman of the Committee;
 - (ii) the Vice-Chancellor;
 - (iii) two members of the Board (one of them shall be a Government nominee of the Board), to be nominated by the Board;
 - (iv) the Director (Finance);
 - (v) one expert in the field of finance, to be nominated by the Board;
 - (vi) one professor, by rotation, to be nominated by the Board;
 - (vii) one Head Coach, by rotation, to be nominated by the Board.
- (2) The Registrar shall be the Secretary of the Committee.
- (3) The term of office of the members nominated under clauses (iii), (v), (vi) and (vii) shall be three years.

Powers and functions of Finance Committee. 22. Subject to the other provisions of this Act, the Finance Committee shall exercise the following powers and perform the following functions, namely:-

- (i) to examine the annual accounts and annual budget estimates of the University and to advise the Board thereon;
- (ii) to review from time to time the financial position of the University;
- (iii) to make recommendations to the Board on all financial policy matters of the University;
- (iv) to make recommendations to the Board on all proposals involving raising of funds, receipts and expenditure;
- (v) to provide guidelines for investment of surplus funds;
- (vi) to make recommendations to the Board on all proposals involving expenditure for which no provision has been made in the budget or which involves expenditure in excess of the amount provided in the budget needs to be incurred;
- (vii) to examine all proposals relating to the revision of pay-scales, upgradation of the scales and those items which are not included in the budget prior to placing before the Board; and

- (viii) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by the regulations.

23. (1) The Registrar shall be appointed by the Board in such manner and on such terms and conditions as may be prescribed. Registrar.

(2) The Registrar shall exercise the following powers and perform following duties, namely:-

- (i) he shall be responsible for the custody of records, common seal, the funds of the University and such other property of the University;
- (ii) he shall place before the Board and other authorities of the University, all such information and documents as may be necessary for transaction of its business;
- (iii) he shall be responsible to the Vice-Chancellor for the proper discharge of his functions;
- (iv) he shall be responsible for the administration of the University and conduct the examinations and make all other arrangements necessary thereof and be responsible for the execution of all processes connected therewith;
- (v) he shall attest and execute all documents on behalf of the University;
- (vi) he shall verify and sign the pleadings in all suits and other legal proceedings by or against the University and all processes in such suits and proceedings shall be issued to and served on the Registrar; and
- (vii) he shall exercise such other powers and perform such other duties as may be assigned to him by or under this Act, the regulations or as may be delegated to him by the Board or the Vice-Chancellor.

24. (1) The Directors of the University shall be appointed by the Vice-Chancellor with the approval of the Board in such manner and on such terms and conditions as may be prescribed. Directors.

(2) The Directors shall assist the Vice-Chancellor in managing the academic, administrative, financial and other affairs of the University and shall exercise such powers and perform such functions as may be prescribed or entrusted to them by the Vice-Chancellor.

25. (1) The Deans shall be appointed by the Vice-Chancellor from amongst the faculties of the University. Deans.

(2) The Deans shall assist the Vice-Chancellor and respective Directors of the institutes or centres in managing the academic and other affairs of the University and shall exercise such powers and perform such functions as may be prescribed or entrusted to them by the Vice-Chancellor and the Director.

- Head Coaches.** 26. (1) The Head Coaches shall be appointed by the Vice-Chancellor from amongst the coaching faculties of the University.
- (2) The Head Coaches shall assist the Vice-Chancellor and respective Directors of the institutes or centres in managing the academic and other training affairs of the University centre for high performance training and shall exercise such powers and perform such functions as may be prescribed or entrusted to them by the Vice-Chancellor and the Director.

CHAPTER IV AFFILIATION

- Affiliation.** 27. (1) A college or institution applying for affiliation to the University shall submit an application to the Registrar, six months prior to the proposed date of starting the college:

Provided that on the recommendation of the Vice-Chancellor, the Board may, if it is satisfied that there are special reasons to do so, after recording such reasons, entertain an application for affiliation not submitted to the Registrar within aforesaid period.

(2) Any college or institution applying for affiliation shall apply in such form along with such fees and in such manner and shall fulfil such norms and criteria as may be prescribed.

(3) On receipt of the application made under sub-section (1), the Board shall, in consultation with the Academic Council and after giving to the college or the institution an opportunity of stating its case, determine whether the college will meet a need in the locality, having regard to the type of education intended to be provided by the college, the existing provision for the same type of education made by other colleges in the neighbourhood and the suitability of the locality where the college is to be established and comply with the provisions of the Act and the regulations, record its opinion as to whether the affiliation should be granted or refused either in whole or in part and communicate the decision to the college or institution.

(4) Where an application for affiliation or any part thereof is granted, the order of the Board shall specify the courses of the instruction in respect of which the college is affiliated and where the application or any part thereof is refused, the grounds of such refusal shall be recorded and shall be communicated to the college or institution.

(5) Any college or institution not satisfied with the decision of the Board under sub-section (4), may prefer an appeal to the State Government within sixty days from the date of communication of such decision or order and the decision of the State Government on such appeal shall be final.

28. Where an affiliated college desires to add the courses of instruction in respect of which it is affiliated, the procedure prescribed under section 27 shall be followed. **Extension of affiliation.**
29. (1) Every affiliated college shall furnish such reports, returns and other information as the Board after consulting the Academic Council may require in order to judge the efficiency of such college. **Inspection of colleges and report.**
- (2) The Board shall cause every such college to be inspected from time to time by the inspection committee consisting of the Vice-Chancellor who shall be the Chairman and such other members, as may be appointed by the Board in accordance with the regulations.
- (3) It shall be the duty of the inspection committee on the direction of the Board in this behalf, to inspect an affiliated college, and make a report to the Board.
- (4) The Board may call upon the college so inspected to take, within a specified period, such actions as may appear to it to be necessary.
30. (1) The rights conferred on a college by affiliation granted under section 27, may be withdrawn in whole or in part or modified if the college fails to carry out any of the provisions of this Act or the regulations or fails to observe any of the conditions of its affiliation or the college is conducted in a manner which is prejudicial to the interests of education. **Withdrawal of affiliation.**
- (2) A motion for the withdrawal or the modification of such rights shall be initiated only in the Board. The member of the Board who intends to move such a motion shall give a notice of it and shall state in writing the grounds on which it is made.
- (3) Before taking such motion into consideration the Board shall send a copy of the notice to the principal of the college concerned, together with intimation that any representation in writing submitted within a period specified in such intimation on behalf of the college will be considered by the Board:
- Provided that the period so specified may, if necessary, be extended by the Board.
- (4) On receipt of the representation or on the expiry of the period referred to in sub-section (3), the Board after considering the notice of motion, statement and the representation, and after such inspection by any competent person or persons authorised by the Board in this behalf, and such further inquiry as may appear to it to be necessary and after consulting the Academic Council, shall by a resolution on the grounds stated therein, withdraw in whole or in part, or modify, the rights conferred by the affiliation and shall communicate to the concerned college:

Provided that where the views of the Academic Council with regard to the withdrawal or modification of the rights conferred by

affiliation are not acceptable to the Board, it shall, before passing such resolution, refer the matter again to the Academic Council, with or without its comments and the Academic Council shall communicate again its views in the matter to the Board.

- Appeal against withdrawal of affiliation.** 31. Any college aggrieved by the resolution withdrawing wholly or partly or modifying the rights conferred by affiliation passed under sub-section (4) of section 30, may make an appeal to the State Government within sixty days from the date of communication of the resolution and the decision of the State Government on such appeal shall be final.
- Withholding or reduction of grant to an affiliated college.** 32. The Board may, on recommendation of the Academic Council, recommend to the State Government withholding or reduction of grant to an affiliated college which on a report by inspection committee or otherwise, is found to be making persistent default in carrying out the conditions of affiliation.
- Post-graduate teaching.** 33. All the post-graduate instructions, teaching and training shall be conducted by the University or by the affiliated college in such subjects as may be prescribed and recognised by the University.

CHAPTER V

FINANCE

- Permanent Endowment Fund of University.** 34. There shall be a "Permanent Endowment Fund" to which the State Government shall make an initial contribution of rupees five crore. The method of raising Endowment Fund and the investment of the surplus shall be as prescribed.
- Payment by State Government to University.** 35. The Government shall pay to the University from time to time such sum of money and in such manner as may be considered necessary for the exercise of powers and discharge of its functions by the University under this Act.
- Fund of University.** 36. (1) The University shall establish a fund to be called the 'University Fund' consisting of –
- (i) any contribution or grants or loans by the State Government and Central Government;
 - (ii) the income of the University from all sources including income from fees and charges;
 - (iii) the moneys received by the University by way of grants, loans, gifts, donations, benefactions, bequests or endowments and other grants, if any;
 - (iv) the moneys received by the University from the collaborating industries in terms of the provisions of the Memorandum of Understanding entered between the University and the industry, for establishment of sponsored chairs, fellowships or infrastructure facilities of the University; and

- (v) the moneys received by the University in any other manner or from any other sources.

(2) The surplus fund of the University shall be deposited in Nationalised Banks or invested in such manner by the Board on the recommendation of the Finance Committee or as per instructions of the State Government from time to time in that behalf.

(3) The funds of the University shall be applied towards the expenses of the University including expenses incurred in the exercise of its powers and discharge of its functions by or under this Act.

37. (1) The University shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the income and expenditure accounts and the balance sheet, in such form and in such manner as may be prescribed. **Accounts, audit and annual report.**

(2) The University shall adopt a proper system of internal checks and balances and control in the discharge of its financial, accounting and auditing functions as may be prescribed.

Guj. XLIX of 1963. (3) The audit of the accounts of the University shall be carried out by the Examiner, Local Fund Audit under the provisions of the Gujarat Local Fund Audit Act, 1963.

(4) The audit report of accounts referred under sub-section (3) shall be placed before the Board and the Board may issue such instructions to the University in respect thereof as it deems fit and the University shall comply with such instructions.

(5) The University shall prepare for each year an annual report of its activities of the previous year containing such particulars as the Board may specify and submit the same in the form of annual report to the Board on or before such date as may be prescribed, for review and approval.

(6) The copy of the annual report and annual audit report along with the resolution of the Board thereon shall be submitted to the State Government.

38. All officers, teachers and other employees who are in the nature of permanent employment of the University shall be members of the New Pension Scheme of the State Government. **Pension.**

CHAPTER VI SUPPLEMENTARY PROVISIONS

39. No act or proceedings of the Board or any authority of the University or any committee constituted under this Act or by regulations **Acts and proceedings not to be invalidate by vacancies.**

shall be invalid merely on the ground of the existence of any vacancy in or defect of, in the constitution of such Board, authority or committee of the University.

Conferment of degrees, diplomas and grant of certificates by University.

40. Notwithstanding anything contained in any other State law for the time being in force, the University shall have powers to confer degrees, diplomas and grant certificates and confer honorary degrees and other academic distinctions and titles as approved by the Board.

Returns and information.

41. The University shall furnish to the State Government, University Grants Commission and other statutory authorities, such reports, returns, statements and other information as may be required by them for time to time.

Officers and employees to be public servant.

42. Every officer, teacher and employee of the University shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Explanation :- For the purpose of this section, any person, who is appointed by the University for a specified period or a specified work of the University or who receives any remuneration by way of allowances or fees for any work done from the University fund, shall be deemed to be an officer or employee of the University while he is performing the duties and functions connected with such appointment or work.

Dismissal, removal, reduction or termination of services of staff of University.

43. (1) No officer or employee or member of the teaching, non-teaching and other academic staff of the University shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(2) An appeal against an order of dismissal, removal or reduction in rank under sub-section (1) or of termination of service shall be made to the Vice-Chancellor within ninety days from the date of communication of such order and the decision of the Vice-Chancellor in such appeal shall be final.

Power of State Government to give directions.

44. The State Government shall have powers to issue directions from time to time as may be required for compliance of the provisions of this Act and the regulations made thereunder and any other law for the time being in force and the University shall be bound to comply with such directions.

Power to make regulations.

45. (1) Subject to the provisions of this Act, the Board shall have in addition to all other powers vested in it, the power to make regulations to provide for the administration and management of the affairs of the University.

(2) In particular and without prejudice to the generality of the forgoing powers, such regulations may provide for all or any of the following matters, namely:-

- (i) the summoning and holding of meetings of the authorities of the University, other than the first meeting of the Board and the quorum and conduct of business at such meetings;
- (ii) such other powers and functions of the Vice-Chancellor;
- (iii) the constitution, powers and duties of the authorities, bodies and other committees of the University, the qualifications and disqualifications for membership of such authorities, term of office of the membership, appointment and removal of member thereof and other matters connected therewith;
- (iv) the procedure to be followed by the Board and any committee or other body constituted by or under this Act or by the regulations in the conduct of the business, exercise of the powers and discharge of the functions;
- (v) the procedure and criteria to be followed in establishing courses of study and curricula, and admission of students;
- (vi) the procedure to be followed for enforcing discipline in the University;
- (vii) the management of the properties of the University;
- (viii) the degrees, diplomas, certificates, and other academic distinctions and titles which may be conferred or granted by the University and withdrawal or cancellation of any such degrees, diplomas, certificates and other academic distinctions and titles and the requirement thereof;
- (ix) the conduct of examinations including the term of office and appointment of examiners;
- (x) the creation of posts of Directors, Professors, Associate Professors, Assistant Professors, Readers, Lecturers, Head Coaches, Coaches, trainers or equivalent academic designations or posts, officers and employees of the University, and the appointment of persons to such posts including requisite qualifications thereof;
- (xi) the fees and other charges to be paid to the University for the courses, training, facilities and services provided by it;
- (xii) the terms and conditions for association of the University with other institutions;
- (xiii) the preparation of budget estimates and maintenance of accounts;
- (xiv) the mode of execution of contract or agreements by or on behalf of the University;
- (xv) the classification and procedure for appointment of officers, employees and other staff of the University;

- (xvi) the terms and conditions and the tenure of appointment, salaries and allowances, contractual services, rule of discipline and other conditions of service of the Directors, Head Coaches, other officers, teachers and employees of the University;
- (xvii) the terms and conditions governing deputation of teachers, officers and employees of the University;
- (xviii) the powers and duties of the Directors, Head Coaches, other officers, teachers and employees of the University;
- (xix) the terms and conditions governing fellowships, scholarships, stipends, medals and prizes;
- (xx) the authentication of the orders and the decisions of the Board;
- (xxi) the matter relating to hostel for students and halls of residence and housing for faculties, officers and employees and guest house including disciplinary control therein; and
- (xxii) all matters which by this Act are to be or may be prescribed.

CHAPTER VII TRANSITORY PROVISIONS

Completion of courses of students in colleges affiliated to other Universities. 46. Notwithstanding anything contained in this Act or the regulations, any student of a college or institution affiliated to other University, who immediately before the date of affiliation to the University, was studying or was eligible for any examination of the other Universities shall be permitted to complete his course in preparation therefore and the University shall provide for such period and in such manner as may be prescribed for the instruction, teaching, training and examination of such students in accordance with the course of studies of the other University.

Appointment of First Vice-Chancellor. 47. Notwithstanding anything contained in section 9, the first Vice-Chancellor shall be appointed by the State Government as soon as practicable after coming into force of this Act for a period not exceeding one year on such terms and conditions as it may think fit.

Appointment of first Registrar. 48. Notwithstanding anything contained in section 23, the first Registrar shall be appointed by the State Government as soon as practicable after the commencement of the Act, for a period not exceeding three years and on such conditions as the State Government thinks fit.

Transitory powers of Vice-Chancellor. 49. Notwithstanding anything contained in this Act, the Vice-Chancellor may, with the prior approval of the Board and subject to availability of the funds, discharge all or any of the functions of the University for the purposes of carrying out the provisions of this Act and the regulations and for the purpose, may exercise any power or perform any duty which by or under this Act and regulations is to be exercised or

performed by any authority of the University until such authority comes in to existence in accordance with the provisions of this Act and the regulations.

50. No suit, prosecution or other legal proceedings shall lie against and no damage shall be claimed from the University, the Vice-Chancellor, the Chairman, the Directors, the authorities or officers or employees of the University or any other person in respect of any thing which is done in good faith or purporting to be done in pursuance of provisions of this Act or any regulations made there under. **Indemnity.**

51. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing difficulties: **Power of State Government to remove difficulties.**

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

The State Government gives top priority to the sports. To achieve excellence in sports and improve the performance at various competitions, the State Government intends to undertake to organize various sports competitions at the various levels through "*Khel Maha Kumbh*". In 2010, the Golden Jubilee Year of the formation of the State, "*Khel Maha Kumbh*" was organised which had record participants reaching the figure of 13.30 lakhs. Encouraged by this, the State Government had declared its intention to establish a Sports University in the State, so as to cultivate the sports culture among the people of the State as also to develop centres, institutions which can provide appropriate training and professional independence to improve the performance of the sports persons of the State. It is pertinent to have institutions either established or run by various educational foundations/institutions/trusts so as to bring them under one umbrella. This University will be basically mandated to promote sports facilities in the State to support with all resources and manpower at its disposal so as to encourage the young generation of the State to become successful at the highest level including national and inter-national in different sports.

The Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain, in brief, some of the important provisions of the Bill:-

Clause 1.-This clause provides for short title, extent and commencement.

Clause 2.-This clause defines certain terms used in the Bill.

Clause 3.- This clause provides for establishment and incorporation of University.

Clauses 4 and 5.-These clauses provide for headquarters and objects of the University.

Clause 6. -This clause provides that the University shall open to all for membership in any authority, body, etc. and also for admission of students irrespective of sex, religion, class, creed or opinion.

Clause 7.-This clause provides for the powers and functions of the University.

Clause 8.- This clause provides for the jurisdiction of the University. It also provides that the colleges or institutions imparting education and training in physical education and sport sciences shall cease to be affiliated to other Universities and shall be deemed to be affiliated to the proposed University on the issue of notification by the State Government in this behalf.

Clauses 9 and 10.-These clauses provide for the qualifications as well as the method of appointment of a person for appointment as the Vice-Chancellor of the University and his powers and duties.

Clauses 11 and 12.-These clauses provide for the appointment of the Chairman of the Board and his powers and functions.

Clause 13.-This clause provides for inspection and inquiry of the buildings, libraries, laboratories, museum, workshop, and equipments of any college, institution or centre of the University, and also the matter connected with the administration, academic affairs and finances of the University by the State Government.

Clauses 14 and 15.-These clauses provide for the Authorities and officers of the University.

Clauses 16 and 18.- These clauses provide for the constitution of Board of Governors, powers and functions of the Board and term of office of the members of the Board.

Clauses 19 and 20.-These clauses provide for the constitution, powers and functions of the Academic Council; and term of office of the members of the Academic Council.

Clauses 21 and 22.-These clauses provide for the constitution, powers and functions of the Finance Committee; and term of office of the members of the Finance Committee.

Clause 23.-This clause provides for the appointment, powers and functions of the Registrar of the University.

Clauses 24 to 26.-These clauses provide for the appointment, powers and functions of the Directors, the Deans and the Head Coaches of the University.

Clauses 27 to 33.-These clauses provide for affiliation, extension of affiliation, inspection of colleges and report, withdrawal of affiliation, appeal against withdrawal of affiliation, withholding or reduction of grant to an affiliated college and post-graduate teaching of the University.

Clause 34.-This clause provides for the Permanent Endowment Fund to which the State Government shall make an initial contribution of rupees five crore, the method of raising Endowment Fund and investment of the surplus fund.

Clause 35.- This clause provides for payment by the State Government to the University such sum of money for exercise of powers and discharge of function by the University.

- Clause 36.*-This clause provides for the establishment of University Fund and investment of surplus funds.
- Clause 37.*-This clause provides for the maintenance of proper accounts by the University and audit of accounts by the Examiner of Local Fund Accounts. It also provides that for preparation of annual report submission of the same to the State Government.
- Clause 38.*-This clause provides for pension of teachers and other employees of the University.
- Clause 40.*-This clause provides that University shall have power to confer degrees and diplomas and grant of certificates, honorary degrees, other academic distinctions and titles.
- Clause 41.*-This clause provides that the University shall furnish the such reports, returns and other information, etc., to the State Government, University Grants Commission and other statutory authorities as may be required by them.
- Clause 42.*-This clause provides that the officers and employees of the University shall be public servants.
- Clause 43.*-This clause provides that no officer, employee or member of the teaching or non-teaching staff of the University shall be dismissed, removed, reduced in rank or his services shall be terminated except an inquiry and given a reasonable opportunity of being heard.
- Clause 44.*-This clause provides that the State Government shall have power to give directions to the University for compliance of the provisions of the Act and regulations and other laws.
- Clauses 45 to 51.*-These clauses provide for making of regulations by the Board, provisions for completion of courses of students in colleges affiliated to other Universities, appointment of first Vice-Chancellor, appointment of first Registrar, transitory powers of Vice-Chancellor, usual indemnity and power of the State Government to remove difficulties.

FAKIRBHAI WAGHELA,

FINANCIAL MEMORANDUM

Clause 34 provides for payment by the State Government a sum of rupees five crore for initial contribution to Permanent Endowment Fund of the University.

Clause 35 provides for payment of such sum of money by the State Government to the University for meeting with the expenditure of the University in exercise of powers and performance of its functions.

Clause 36 provides for payment of grants by the State Government to the University.

It is not feasible to estimate the expenditure at present for making the University fully functional. During the financial year 2011-12 an amount of rupees ten crore has been provided.

FAKIRBHAI WAGHELA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 4.- This clause empowers the State Government to specify by notification in the *Official Gazette*, the place of headquarter of the University.

Clause 5.- Sub-clause (x) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, such other objects of the University.

Clause 7.- (i) Sub-clause (iv) of this clause empowers the Board to prescribe by regulations, the course of study and the curricula;

(ii) sub-clause (v) of this clause empowers the University to determine by regulations, the conditions subject to which it may confer degrees and diplomas and to grant certificates and other academic distinctions of titles and also empowers the Board to prescribe by regulations the manner in which the University may withdraw or cancel any such degree, diploma or certificate;

(iii) sub-clause (vi) empowers the Board to prescribe by regulations, the manner in which the University may confer honorary degrees or other distinctions;

(iv) sub-clause (xviii) empowers the Board to prescribe by regulations, to fix, demand and receive or recover fees and such other charges;

(v) sub-clause (xxvi) empowers the Board to prescribe by regulations, the manner in which the students shall be admitted to the courses offered by the University;

(vi) sub-clause (xxviii) empowers the Board to prescribe by regulations, to provide for the disciplinary measures to be taken against the officers and the employees of the University;

(vii) sub-clause (xxix) empowers the Board to prescribe by regulations, the qualifications for appointment of the persons on the post of professors, associate professors, assistant professors, readers, lecturer, endowed professors, honorary professors, adjunct professors, emeritus professors, head coaches, coaches, trainers of different sports and games and any other teaching, academic or research and other posts of the University.

Clause 8.- Sub-clause (3) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, that the colleges and educational institutions imparting physical education and education in sport sciences subjects in the State, shall cease to be affiliated to any other University and shall be deemed to be affiliated to the University from such date as specified in the said notification.

Clause 10.- Para (v) of sub-clause (2) of this clause empowers the University to prescribe by regulations, such other powers and duties of the Vice-Chancellor.

Clause 11.- Sub-clause (2) of this clause empowers the State Government to determine the qualifications and terms and conditions for appointment of the Chairman.

Clause 12.- Sub-clause (2) of this clause empowers the Board to prescribe by regulations, such other powers and functions of the Chairman.

Clause 14.—Sub-clause (iv) of this clause empowers the Board to declare by regulations, such other authorities to be the authorities of the University.

Clause 15.—Sub-clause (vi) of this clause empowers the Board to declare by regulations, such other persons to be the officers of the University.

Clause 17.-(i) Para (iii) of sub-clause (2) of this clause empowers the Board to make regulations for carrying out the purposes of the Act;

(ii) Para (x) of sub-clause (2) of this clause empowers the Board to prescribe by regulations, other powers and duties of the Board which may be conferred or imposed upon for achieving the objects of the University.

Clause 20.-Sub-clause (iv) of this clause empowers Board to prescribe by regulations, other powers and functions of the Academic Council.

Clause 22.- Sub-clause (viii) of this clause empowers the University to prescribe by regulations, other powers and functions of the Finance Committee.

Clause 23.- (i) Sub-clause (1) of this clause empowers the Board to prescribe by regulations, the manner in which and such terms and conditions on which the Registrar shall be appointed;

(ii) Para (vii) of sub-clause (2) of this clause empowers the Board to prescribe by regulations, other powers and functions of the Registrar.

Clause 24.- (i) Sub-clause (1) of this clause empowers the Board to prescribe by regulations, the manner in which and such terms and conditions on which the Directors shall be appointed;

(ii) sub-clause (2) of this clause empowers the Board to prescribe by regulations, other powers and functions of the Directors.

Clause 25.- Sub-clause (2) of this clause empowers the Board to prescribe by regulations, other powers and functions of the Deans.

Clause 26.- Sub-clause (2) of this clause empowers the Board to prescribe by regulations, other powers and functions of the Head Coaches.

Clause 27.- Sub-clause (2) of this clause empowers the Board to prescribe by regulations, the form of application, fees, norms and criteria and the manner for making an application by a college for affiliation.

Clause 33.- This clause empowers the Board to prescribe by regulations, the subjects in which all the post-graduate instructions, teaching and training shall be conducted.

Clause 37.- (i) Sub-clause (1) of this clause empowers the Board to prescribe by regulations, form for maintenance of proper accounts and other relevant records, annual statement of accounts, income and expenditure account and balance sheet and the manner in which they shall be maintained and prepared;

(ii) sub-clause (2) empowers the Board to prescribe by regulations, manner for maintenance of proper systems of internal checks and balances in discharge of financial, accounting and auditing functions of the University;

(iii) sub-clause (5) of this clause empowers the Board to specify by regulations, the particulars of activities of the University of previous year to be contained in the annual report and the date by which annual report shall be submitted to the Board.

Clause 44.- This clause empowers the State Government to issue directions to the University, as may be required for compliance of the provisions of the Act, the regulations made thereunder and any other law.

Clause 45.- Sub-clause (1) of this clause empowers the Board to make regulations for the administration and management of the affairs of the University;

Clause 46.- This clause empowers the University to prescribe by regulations, the period within which and the manner in which students of other colleges affiliated to the University shall complete the instruction, teaching, training and examination in accordance with the course of studies of that University.

Clause 51.- This clause empowers the State Government to make the provisions, by order published in the *Official Gazette*, to remove any difficulty, arising within two years from the commencement of the Act, in giving effect to the provisions of this Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 8th March, 2011.

FAKIRBHAI WAGHELA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 9th March, 2010.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



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The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. LII]

FRIDAY, MARCH 11, 2011/PHALGUNA 20, 1932

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT ANATOMY BILL, 2011.

GUJARAT BILL NO. 15 OF 2011.

A BILL

to provide for the supply of unclaimed bodies of deceased persons and for donation by a person of his body after his death to hospitals and medical teaching institutions for therapeutic purposes or for the purpose of medical education or research including anatomical examination and dissection.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Anatomy Act, 2011.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title and
commencement.

Definitions

2. In this Act, unless the context otherwise requires,
- (a) "approved institution" means a hospital or medical teaching institute approved by the State Government for all or any of the purposes of this Act;
 - (b) "authorised officer" means an officer authorised under section 3;
 - (c) "near relative" means any of the following relatives of the deceased, namely :-
 parents, children, brother, sister or spouse; and includes any other person who is related to the deceased -
 (i) by lineal or collateral consanguinity within three degrees in lineal relationship and six degrees in collateral relationship, or
 (ii) by marriage either with the deceased or with any relative specifically mentioned in this clause or with any other relative within the aforesaid degrees.

Explanation. - The expression "lineal and collateral consanguinity" shall have the meanings assigned to them in the Succession Act, 1925; 39 of 1925

- (d) "natural death" means the death that occurs from natural causes such as disease or old age and not caused by suicide or killing by another or by an animal or by machinery or by an accident or death not caused under circumstances raising a reasonable suspicion that some other person has killed the deceased;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "unclaimed body" means the body of a deceased person who has no near relative or whose body has not been claimed by any of his near relatives within such period as may be prescribed.

Power of State Government to authorise officer to act under section 4.

3. The State Government may, by notification in the *Official Gazette*, authorise one or more officers to whom a report shall be made under section 4.

Unclaimed dead bodies to be used for anatomical teaching

4. (1) Where a person, under treatment in a hospital dies of natural death in such hospital and his body is unclaimed, the authority in-charge of such hospital shall, with the least practicable delay report the fact to the authorised officer and such officer shall then hand over, in the manner as may be prescribed, the unclaimed body to the authority in-charge of an approved institution for the purpose of conducting anatomical dissection and teaching.

- (2) Where a person dies of a natural death in any public place or at his residence other than a hospital; and his body is unclaimed, the authorised officer shall take possession of such unclaimed body and shall hand it over, in the manner as may be prescribed, to the authority in-charge of an approved institution for the purpose specified in sub-section (1).

(3) (i) Where there is any doubt as to the natural death or when for any other reason the authorised officer considers it expedient so to do, he shall forward the unclaimed body to a police officer referred to in section 2 of 1974. 174 of the Code of Criminal Procedure, 1973.

(ii) If the death appears to be natural death to the police inquest, the unclaimed body may be handed over to the Anatomy Department of the approved institute without performing post-mortem. Whether the unclaimed body is suitable for embalming and can be used for anatomical dissection and teaching purpose shall be decided by a senior officer of the Anatomy Department.

5. If any doubt or dispute arises whether a person is a near relative of the deceased, the matter shall be referred to the Executive Magistrate and his decision shall be final and conclusive. **Doubt or dispute as near relative to be referred.**

6. Whoever disposes of or abets the disposal of an unclaimed body of a natural death, save as provided by this Act, or obstructs any authority incharge of an approved institution or an authorised officer from handing over, taking possession of, removing or using, such dead body for all or any of the purposes of this Act, shall on conviction, be punished with fine which may extend to five thousand rupees. **Penalty.**

7. All Officers and employees of the Police, Health and other Government Departments, all officers and servants of a local authorities and all village officers and employees shall be bound to take all reasonable measures to assist the authorities and officers authorised under this Act in the discharge of their duties under this Act. **Duty of police and other officers to assist.**

8. If any person, either in writing at anytime or orally in the presence of two or more witnesses during his illness whereof he dies, has expressed a request that his body be given to authorities in-charge of an approved institution for being used after his death for therapeutic purposes or for the purposes of medical education or research including anatomical examination and dissection, the near relative lawfully in possession of donor's dead body may, unless he has reason to believe that the request was subsequently withdrawn by the donor, bring the dead body to any approved institution for use in accordance with the request. **Donation of a dead body of deceased person.**

9. The approved institute may refuse to accept an unclaimed body or a body brought to it under section 8, if a senior officer decides that the body is not suitable for educational purposes or that the body is not required by the said institute. Only intact dead bodies without any type of mutilation can be accepted for embalming and for teaching purpose. **Refusal to accept dead body.**

10. If any of the approved institutes does not accept a dead body as provided in section 9 or after the use of it for the purposes specified in this Act, the same shall be disposed of or caused to be disposed by it in the manner as may be prescribed. **Disposal of dead body.**

Registers,
returns, etc.

11. (1) The authority in-charge of the approved institute shall maintain a register of the dead bodies it received, used and disposed of in such form and in such manner as may be prescribed.

(2) Every authority in charge of the approved institution shall submit a periodical return to authorised officer in such form and in such manner as may be prescribed.

Protection of
action taken in
good faith.

12. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Officers and
employees to be
public servants.

13. All officers and employees appointed or authorised to act under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Power to make
rules.

14. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature, as soon as may be after they are made, and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the Session in which they are so laid or the Session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Repeal and
savings,

15. (1) The Bombay Anatomy Act, 1949, in its application to the State of Gujarat is hereby repealed.

Bom. XI of
1949

(2) Notwithstanding such repeal of the said Act, anything done or any action taken under the said Act including any rule or order made, notification issued or appointment made by or under that Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken by or under this Act and shall continue to be in force until superseded by anything done or any action taken under the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

At present the Bombay Anatomy Act, 1949 is in force in the State of Gujarat which provides for the supply of unclaimed bodies of diseased persons to hospitals and medical and teaching institutions for the purpose of anatomical examination and dissection.

The said Act is an enactment of the then Bombay State and it was adopted and applied to the State of Gujarat after the 1st May, 1960.

Since considerable time is passed after the formation of Gujarat State, it is considered desirable to replace the laws enacted in the Bombay State by the Gujarat State enactments. While repealing and re-enacting the law on the subject an opportunity is taken to review the provisions of the said Act.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain, in brief, the important provisions of the Bill:-

- Clause 1.-** This clause provides for short title and commencement.
- Clause 2.-** This clause defines certain terms used in the Bill.
- Clause 3.-** This clause empowers the State Government to authorise an officer to whom a report of unclaimed body shall be made.
- Clause 4.-** This clause provides that where a person under treatment in a hospital dies of natural death and his body is unclaimed, the authority-in-charge of the hospital shall report of the unclaimed body to the authorized officer and the body of such person shall be handed over to the approved institution for the anatomical dissection and teaching. It also provides for the procedure to be adopted where there is any doubt as to the natural death of a person or for other reasons.
- Clause 5.-** This clause provides that the matter shall be referred to the Executive Magistrate in case of doubt or dispute as to whether the person is near relative of the deceased.
- Clause 6.-** This clause provides for the penalty for breach of the provisions of the Act.
- Clause 7.-** This clause provides that it shall be the duty of police, health, and other officers and employees of Government Departments and local authorities to assist the authorities and authorised officers in discharge of their duty under this Act.

- Clause 8.-** This clause provides for donation of dead body of deceased person for therapeutic purposes or the purposes of medical education or research including anatomical examination and dissection.
- Clause 9.-** This clause provides for refusal to accept the dead body in case the body is unsuitable for educational purposes or that the body is not required by the Department.
- Clause 10.-** This clause provides that the dead body shall be disposed off in the manner prescribed by rules.
- Clause 11.-** This clause provides for the maintenance of a register of the dead bodies received, used and disposed off by the approved institution and submission of periodical return to the authorised officer.
- Clause 12.-** This clause provides for usual indemnity for acts done in good faith.
- Clause 13.-** This clause provides that all officers appointed or authorised under the Act shall be public servants.
- Clause 14.-** This clause empowers the State Government to make rules, by notification in the *Official Gazette*, for carrying out the purposes of the Act.

JAYNARAYAN VYAS,

FINANCIAL MEMORANDUM

The Gujarat Anatomy Bill, 2011 seeks to replace and repeal the Bombay Anatomy Act, 1949. The administrative set up already exists for carrying into effect the provisions of the existing Act, the same set up shall continue for the implementation of the provisions of the present Bill and as such, if the Act is enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the State.

JAYNARAYAN VYAS,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 1. - Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2.- Sub-clause (f) of this clause empowers the State Government to prescribe by rules the period within which the body of a deceased person shall be claimed by his near relative.

Clauses 3.- This clause empowers the State Government to authorise, by notification in the *Official Gazette*, one or more officers to whom a report under section 4 shall be submitted.

Clause 4.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which the authorised officer shall hand over the unclaimed body of the person died of natural death in a hospital, to the authority in-charge of an approved institution for the purpose of anatomical dissection and teaching;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner in which the authorised officer shall hand over the unclaimed body of the person died of natural death in any public place or at his residence, other than a hospital, to the authority in-charge of an approved institution for the purpose of anatomical dissection and teaching.

Clause 10.- This clause empowers the State Government to prescribe by rules, the manner in which the unaccepted dead body shall be disposed off.

Clause 11.- This clause empowers the State Government to prescribe by rules, the form and the manner in which the authority in-charge of the approved institute shall maintain a register of the dead bodies it received, used and disposed off; and also the form and the manner in which every authority in-charge of the approved institute shall submit a periodical return to the Authorised Officer.

Clause 14.- This clause empowers the State Government to make, by notification in the *Official Gazette*, the rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 10th March, 2011.

JAYNARAYAN VYAS.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 11th March, 2011.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT SHORT TITLES (AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 16 OF 2011.

A BILL

to amend the short titles of Bombay Acts.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Short Titles (Amendment) Act, 2011. **Short title**

2. In this Act, unless the context otherwise requires, the words "Bombay Act" mean the Act enacted by a competent legislature or other competent authority before 1st May, 1960 for the State of Bombay or, as the case may be, the Province of Bombay and in force in the State of Gujarat on the commencement of this Act. **Definition.**

3. In the short title of each of the Bombay Acts specified in column 4 of the Schedule, for the word "Bombay", the word "Gujarat" shall be, and shall be deemed to have been substituted on 1st May, 1960. **Amendment of short titles of Bombay Acts.**

Citation of
Bombay Acts
stands
unmodified.

4. Notwithstanding the amendment of short titles of Bombay Acts specified in column 4 of the Schedule by section 3, the citation of those Acts by reference to the number and year respectively specified in column 2 and 3 of the Schedule against those Acts shall stand unmodified.

Construction of
subordinate
legislation made
under Bombay
Acts.

5. Unless the context otherwise requires, any reference to the short title of the Bombay Act specified in the Schedule, in any rules, regulations, bye-laws, schemes, notifications or orders or in any other instrument made or issued under the said Bombay Act, shall be construed as a reference to the short title of the said Bombay Act as amended by this Act.

SCHEDULE
(See- sections 3 and 4)

Sr. No.	Act No.	Year	Name of the Bombay Acts
1	2	3	4
1	Bom. VIII	1867	The Bombay Village Police Act, 1867
2	Bom. II	1868	The Bombay Ferries and Inland Vessels Act, 1868
3	Bom. X	1876	The Bombay Revenue Jurisdiction Act, 1876
4	Bom. V	1879	The Bombay Land Revenue Code, 1879
5	Bom. VII	1879	The Bombay Irrigation Act, 1879
6	Bom. I	1883	The Bombay Highway Act, 1883
7	Bom. IV	1887	The Bombay Prevention of Gambling Act, 1887
8	Bom. V	1890	The Bombay Municipal Servants Act, 1890
9	Bom. I	1904	The Bombay General Clauses Act, 1904
10	Bom. VII	1920	The Bombay Public Conveyances Act, 1920
11	Bom. XVII	1920	The Bombay Pleaders Act, 1920
12	Bom. III	1928	The Bombay Non-Agriculturists' Loans Act, 1928
13	Bom. VII	1929	The Bombay Maternity Benefit Act, 1929
14	Bom. XVIII	1929	The Bombay Borstal Schools Act, 1929
15	Bom. II	1932	The Bombay Finance Act, 1932
16	Bom. IX	1934	The Bombay Trade Disputes Conciliation Act, 1934
17	Bom. IV	1938	The Bombay Provincial Collection of Taxes Act, 1938
18	Bom. XXVIII	1942	The Bombay Land Improvement Schemes Act, 1942
19	Bom. XX	1946	The Bombay Electricity (Special Powers) Act, 1946
20	Bom. III	1947	The Bombay Home Guards Act, 1947
21	Bom. XI	1947	The Bombay Industrial Relations Act, 1946
22	Bom. XXXIV	1947	The Bombay Adjudication Proceedings (Transfer and Continuance) Act, 1947
23	Bom. LVII	1947	The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947
24	Bom. LXI	1947	The Bombay Primary Education Act, 1947
25	Bom. LXII	1947	The Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947
26	Bom. LXIV	1947	The Bombay Forward Contracts Control Act, 1947
27	Bom. XXXI	1948	The Bombay Building (Control on Erection, Re-erection and Conversion) Act, 1948
28	Bom. XXXIII	1948	The Bombay Land Requisition Act, 1948
29	Bom. LXVII	1948	The Bombay Tenancy and Agricultural Lands Act, 1948
30	Bom. LXXIX	1948	The Bombay Shops and Establishments Act, 1948
31	Bom. XV	1949	The Bombay Nursing Homes Registration Act, 1949
32	Bom. XXV	1949	The Bombay Prohibition Act, 1949
33	Bom. XXVII	1949	The Bombay Repatriated Prisoners Act, 1949
34	Bom. XXXV	1949	The Bombay Land Acquisition Officers Proceedings Validation Act, 1949

Sr. No.	Act No.	Year	Name of the Bombay Acts
1	2	3	4
35	Bom. XLII	1949	The Bombay Prevention of Ex-Communication Act, 1949
36	Bom. LIX	1949	The Bombay Provincial Municipal Corporations Act, 1949
37	Bom. IV	1950	The Bombay Merged States (Laws) Act, 1950
38	Bom. XXIII	1950	The Bombay Local Authorities Census Expenses Contribution Act, 1950
39	Bom. XXII	1951	The Bombay Police Act, 1951
40	Bom. XXIII	1951	The Bombay Separation of Judicial and Executive Functions Act, 1951
41	Bom. XXXVIII	1951	The Bombay State Reserve Police Force Act, 1951
42	Bom. XXIX	1953	The Bombay Evacuee Interest (Separation) Validating and Supplementary Act, 1953
43	Bom. XL	1953	The Bombay Labour Welfare Fund Act, 1953
44	Bom. VIII	1954	The Bombay Separation of Judicial and Executive Functions (Supplementary) Act, 1954
45	Bom. LXVIII	1954	The Bombay Extension of Laws to Non-Scheduled (Partially Excluded) Areas Act, 1954
46	Bom. LXXII	1954	The Bombay Animal Preservation Act, 1954
47	Bom. XVIII	1955	The Bombay Judicial Proceeding (Regulation of Reports) Act, 1955
48	Bom. LV	1955	The Bombay Highways Act, 1955
49	Bom. III	1956	The Bombay Aerial Ropeways Act, 1955
50	Bom. XXXI	1956	The Bombay Hindu Places of Public Worship (Entry Authorization) Act, 1956
51	Bom. XXXVIII	1956	The Bombay Molasses (Control) Act, 1956
52	Bom. XXXIII	1957	The Bombay Corneal Grafting Act, 1957
53	Bom. XXXI	1958	The Bombay Revenue Tribunal Act, 1957
54	Bom. XL	1958	The Bombay Electricity Duty Act, 1958
55	Bom. LVI	1958	The Bombay Requisitioned Property (Continuance of Powers) (Saurashtra Area) Act, 1958
56	Bom. LX	1958	The Bombay Stamp Act, 1958
57	Bom. LXV	1958	The Bombay Motor Vehicles Tax Act, 1958
58	Bom. LXVII	1958	The Bombay Motor Vehicles (Taxation of Passengers) Act, 1958
59	Bom. LXXXII	1958	The Bombay Lotteries (Control and Tax) and Prize Competitions (Tax) Act, 1958
60	Bom. LXXXIII	1958	The Bombay State Famine Relief Fund Act, 1958

Sr. No.	Act No.	Year	Name of the Bombay Acts
1	2	3	4
61	Bom. XCVII	1958	The Bombay Separation of Judicial and Executive Functions (Extension) and the Code of Criminal Procedure (Provision for Uniformity) Act, 1958
62	Bom. XCIX	1958	The Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958
63	Bom. LVI	1959	The Bombay State Commissioners of Police Act, 1959
64	Bom. 61	1959	The Bombay Habitual Offenders Act, 1959
65	Bom. LXX	1959	The Bombay Execution of Decrees (Temporary Postponement) Act, 1959
66	Bom. X	1960	The Bombay Prevention of Begging Act, 1959
67	Bom. XI	1960	The Bombay Drugs (Control) Act, 1959

STATEMENT OF OBJECTS AND REASONS

The Gujarat State was formed on the 1st May, 1960 as a result of bifurcation of the bigger Bilingual State of Bombay into two linguistic States of Gujarat and Maharashtra by the Bombay Re-organization Act, 1960.

By section 87 of the said Act, the Bombay Acts in force in the said State of Bombay were continued to be in force in the State of Gujarat or part thereof. Therefore, the Acts having short titled with prefix "Bombay" continued to be in force in the State of Gujarat or part thereof. It is, therefore, intended to amend those short titles so as to substitute the prefix "Bombay" by the prefix "Gujarat".

This Bill seeks to achieve the aforesaid object.

Gandhinagar,
Dated the 10th March, 2011.

DILEEP SANGHANI.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 11th March, 2011.

C.J.GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT APPROPRIATION (EXCESS EXPENDITURE) BILL, 2011.

GUJARAT BILL NO. 17 OF 2011

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 1994.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Appropriation (Excess Expenditure) Short title. Act, 2011.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 4 of the Schedule hereto annexed amounting in the aggregate to the sum of five hundred seventy-four crores, seventy-nine lakhs, fifty-two thousand, nine hundred seventeen rupees towards defraying the several charges which have come in course of payment during the financial year ending on the thirty-first day of March, 1994, in respect of the services and purposes specified in column 2 of the Schedule.

Issue of
Rs.5,74,79,52,917
from and out of
Consolidated
Fund of State of
Gujarat for
financial year
1993-94.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ending on the thirty-first day of March, 1994.

SCHEDULE
(See sections 2 and 3)

No. of Excess Demand/ Appropriation	Services and Purposes	Revenue/ Capital	Sums not exceeding		
			Voted by the Legislative Assembly	Charged on the Consolidated Fund	Total
1	2	3	4		
4	Animal Husbandary and Dairy Development	Revenue	76,59,564		76,59,564
6	Co-operation	Revenue	1,33,72,52,704		1,33,72,52,704
9	Education	Revenue	13,12,907		13,12,907
13	Energy Projects	Revenue	1,47,46,33,715		1,47,46,33,715
18	Pensions and Other Retirement Benefits	Revenue	79,16,363		79,16,363
20	Repayment of Debt pertaining to Finance Department and Servicing	Capital		85,99,04,064	85,99,04,064
31	Elections	Revenue	1,20,372		1,20,372
32	Public Service Commission	Revenue		3,808	3,808
39	Medical and Public Health	Revenue	3,48,29,344		3,48,29,344
43	Home Department	Revenue	80,264		80,264
44	Police	Revenue	6,17,00,614	76,952	6,17,77,566
45	Jails	Revenue	41,57,622		41,57,622
47	Other Expenditure pertaining to Home Department	Capital	2,88,84,757		2,88,84,757
52	Other Expenditure pertaining to Industries and Mines Department	Capital	57,958		57,958
61	Administration of Justice	Revenue		15,87,850	15,87,850
65	Irrigation and Soil Conservation	Revenue	1,65,23,55,027		1,65,23,55,027
		Capital	6,41,13,694		6,41,13,694
66	Other Expenditure pertaining to Narmada Water Resources Department	Revenue	1,56,030	4,64,844	6,20,874
		Capital	8,061		8,061
71	Other Expenditure pertaining to Panchayats and Rural Housing Department	Revenue	5,63,802		5,63,802

No. of Excess Demand/ Approp- riation	Services and Purposes	Revenue/ Capital	Sums not exceeding		
			Voted by the Legislative Assembly	Charged on the Consolidated Fund	Total
1	2	3	4		
80	Non-Residential Buildings	Revenue	1,62,80,710		1,62,80,710
81	Residential Buildings	Capital	52,07,181		52,07,181
82	Roads and Bridges	Revenue	9,12,05,841		9,12,05,841
		Capital	8,39,39,347		8,39,39,347
84	Gujarat Capital Construction Scheme	Revenue	45,51,163		45,51,163
85	Other Expenditure pertaining to Roads and Buildings Department	Revenue	88,39,887		88,39,887
86	Social Welfare and Tribal Development Department	Revenue	20,863		20,863
97	Other Expenditure pertaining to Urban Development and Urban Housing Department	Capital	18,953		18,953
98	Youth Services and Cultural Activities Department	Revenue	19,396		19,396
100	Other Expenditure pertaining to Youth Services and Cultural Activities Department	Capital	29,260		29,260
	Total :	Revenue	4,70,36,56,188	21,33,454	4,70,57,89,642
		Capital	18,22,59,211	85,99,04,064	1,04,21,63,275
	Grand Total :		4,88,59,15,399	86,20,37,518	5,74,79,52,917

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 205 of the Constitution of India read with article 204 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the excess expenditure incurred on certain services and purposes during the financial year ending on the thirty-first day of March, 1994.

The amounts are shown below: Rs.

(a) Revenue Account	4,70,57,89,642
(b) Capital Account	1,04,21,63,275
Total:	5,74,79,52,917

Gandhinagar,
Dated the 16th March, 2011

VAJUBHAI VALA.

By Order and in the name of the Governor of Gujarat,

Gandhinagar.
Dated the 17th March, 2011.

C. J. GOTH,
Secretary,
to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.

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(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT APPROPRIATION (EXCESS EXPENDITURE) (SECOND) BILL, 2011.

GUJARAT BILL NO. 18 OF 2011.

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 1995.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Appropriation (Excess Expenditure) (Second) Act, 2011. Short title.
2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 4 of the Schedule hereto annexed amounting in the aggregate to the sum of three hundred seventy-two crores, seventy-five lakhs, five hundred eighty-four rupees towards defraying the several charges which have come in course of payment during the financial year ending on the thirty-first day of March, 1995, in respect of the services and purposes specified in column 2 of the Schedule. Issue of Rs.3,72,75,00, 584 from and out of the Consolidated Fund of the State of Gujarat for financial year 1994-95.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in Appropriation. relation to the financial year ending on the thirty-first day of March, 1995.

SCHEDULE

(See sections 2 and 3)

No. of Excess Demand/ Appropriation	Services and Purposes	Revenue/ Capital	Sums not exceeding		
			Voted by the Legislative Assembly	Charged on the Consolidated Fund	Total
1	2	3	4		
4	Animal Husbandary and Dairy Development	Revenue	1,68,83,147		1,68,83,147
6	Co-operation	Revenue	18,48,80,342		18,48,80,342
10	Other Expenditure pertaining to Education Department	Revenue	3,54,253		3,54,253
		Capital	3,48,15,760		3,48,15,760
13	Energy Projects	Capital	44,57,00,000		44,57,00,000
15	Finance Department	Capital	34,313		34,313
19	Other Expenditure pertaining to Finance Department	Capital	4,15,93,516		4,15,93,516
21	Food and Civil Supplies Department	Revenue	5,11,470		5,11,470
24	Other Expenditure pertaining to Food and Civil Supplies Department	Capital	27,700		27,700
26	Forest	Revenue	2,79,60,102		2,79,60,102
30	Council of Minister	Revenue	1,04,093		1,04,093
39	Medical and Public Health	Revenue	9,58,21,492		9,58,21,492
42	Other Expenditure pertaining to Health and Family Welfare Department	Capital	9,21,047		9,21,047
43	Home Department	Revenue	8,95,153		8,95,153
45	Jails	Revenue	49,84,163		49,84,163
46	Transport	Revenue	1,02,97,537		1,02,97,537
49	Stationery and Printing	Revenue	2,10,669		2,10,669
50	Industries	Revenue	22,14,61,071		22,14,61,071
52	Other Expenditure pertaining to Industries and Mines Department	Capital	3,95,735		3,95,735
53	Broadcasting and Tourism Department	Revenue	38,072		38,072
57	Labour and Employment Department	Revenue	56,232		56,232
61	Administration of Justice	Revenue		17,16,763	17,16,763
63	Legislative and Parliamentary Affairs Department	Revenue	2,797		2,797

No. of Excess Demand/ Appropriation	Services and Purposes	Revenue/ Capital	Sums not exceeding		
			Voted by the Legislative Assembly	Charged on the Consolidated Fund	Total
1	2	3	4		
65	Narmada and Water Resources Department	Revenue	9,27,731		9,27,731
67	Irrigation and Soil conservation	Revenue	1,83,88,06,025		1,83,88,06,025
68	Other Expenditure pertaining to Narmada and Water Resources Department	Revenue	2,042	87,42,880	87,44,922
73	Other Expenditure pertaining to Panchayats and Rural Housing Department	Revenue	97,87,723		97,87,723
		Capital	300		300
77	Relief on Account of Natural Calamities	Capital	42,52,300		42,52,300
78	Dangs District	Revenue	52,68,957		52,68,957
79	Compensation and Assignments	Revenue	10,760		10,760
82	Non-Residential Buildings	Revenue	13,70,26,840	1,50,692	13,71,77,532
83	Residential Buildings	Revenue	4,65,31,007		4,65,31,007
84	Roads and Bridges	Revenue	56,51,06,388		56,51,06,388
86	Gujarat Capital Construction Scheme	Revenue	47,30,378		47,30,378
87	Other Expenditure pertaining to Roads and Building Department	Revenue	1,35,82,282		1,35,82,282
92	Other Expenditure pertaining to Social Welfare and Tribal Development Department	Capital	1,46,159		1,46,159
94	Tribal Area Sub Plan	Revenue		3,82,483	3,82,483
		Capital		47,930	47,930
95	Urban Development and Urban Housing Department	Revenue	3,83,316		3,83,316
98	Compensations, assignments and Tax Collection Charges	Revenue	19,48,964		19,48,964
	Total :	Revenue	3,18,85,73,006	1,09,92,818	3,19,95,65,824
		Capital	52,78,86,830	47,930	52,79,34,760
	Grand Total :		3,71,64,59,836	1,10,40,748	3,72,75,00,584

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 205 of the Constitution of India read with article 204 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the excess expenditure incurred on certain services and purposes during the financial year ending on the thirty-first day of March, 1995.

The amounts are shown below:

Rs.

(a) Revenue Account 3,19,95,65,824

(b) Capital Account 52,79,34,760

Total: 3,72,75,00,584

Gandhinagar.
Dated the 16th March, 2011.

VAJUBHAI VALA.

By Order and in the name of the Governor of Gujarat,

Gandhinagar.
Dated the 17th March, 2011.

C. J. GOTHI,
Secretary,
to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



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The Gujarat Government Gazette

EXTRAORDINARY
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Vol. LII]

THURSDAY, MARCH 17, 2011/PHALGUNA 26, 1932

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT APPROPRIATION (EXCESS EXPENDITURE) (THIRD) BILL, 2011.

GUJARAT BILL NO. 19 OF 2011

A BILL

to authorise payment and appropriation of certain further sums from and out of the consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 1996.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Appropriation (Excess Expenditure) (Third) Act, 2011.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 4 of the Schedule hereto annexed amounting in the aggregate to the sum of five hundred sixty-four crores, fifteen lakhs, seventy-six thousand, one hundred seven rupees towards defraying the several charges which have come in course of payment during the financial year ending on the thirty-first day of March, 1996, in respect of the services and purposes specified in column 2 of the Schedule.

Short title.

Issue of
Rs.5,64,15,76,107
from and out of
the Consolidated
Fund of the State
of Gujarat for the
financial year
1995-96.

Appropriation. 3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ending on the thirty-first day of March, 1996.

SCHEDULE
(See sections 2 and 3)

No. of Excess Demand/A ppropriati on	Services and Purposes	Revenue/ Capital	Sums not exceeding		
			Voted by the Legislative Assembly	Charged on the Consolidated Fund	Total
1	2	3	4		
1	Agriculture, Co-operation and Rural Development Department	Revenue	7,66,743		7,66,743
3	Minor Irrigation, Soil Conservation and Area Development	Capital	197		197
4	Animal Husbandary and Dairy Development	Revenue	94,66,182		94,66,182
5	Co-operation	Revenue	5,47,88,478		5,47,88,478
		Capital	14,89,08,500		14,89,08,500
8	Education	Revenue	36,32,21,763	54,893	36,32,76,656
		Capital	5,86,955		5,86,955
9	Other Expenditure pertaining to Education Department	Capital	49,17,404		49,17,404
10	Energy and Petro-Chemicals Department	Revenue	90,667		90,667
12	Energy Projects	Revenue	32,62,89,063		32,62,89,063
20	Food and Civil Supplies Department	Revenue	14,79,705		14,79,705
22	Food	Revenue	38,90,316		38,90,316
24	Forest and Environment Department	Revenue	4,01,425		4,01,425
37	Health and Family Welfare Department	Revenue	24,38,612		24,38,612
38	Medical and Public health	Revenue	6,03,08,760		6,03,08,760
40	Water Supply	Revenue	1,18,17,075		1,18,17,075
42	Home Department	Revenue	15,32,425		15,32,425
43	Police	Revenue	5,80,60,351	71,986	5,81,32,337
44	Jails	Revenue	16,70,107		16,70,107
47	Industries and Mines Department	Revenue	22,231		22,231
48	Stationery and Printing	Revenue	89,57,157		89,57,157
49	Industries	Revenue	18,36,97,597		18,36,97,597
		Capital	67,27,32,349		67,27,32,349
55	Other Expenditure pertaining to Information, Broadcasting and Tourism Department	Revenue	1,83,576		1,83,576
56	Labour and employment Department	Revenue	1,74,811		1,74,811
58	Other Expenditure pertaining to Labour and Employment Department	Capital	4,56,200		4,56,200
59	Legal Department	Revenue	10,20,360		10,20,360
60	Administration of Justice	Revenue	16,73,488		16,73,488
61	Other Expenditure pertaining to Legal Department	Revenue	1,21,130		1,21,130

No. of Excess Demand/A ppropriati on	Services and Purposes	Revenue/ Capital	Sums not exceeding		
			Voted by the Legislative Assembly	Charged on the Consolidated Fund	Total
1	2	3	4		
64	Narmada and Water Resources Department	Revenue	16,70,114		16,70,114
66	Irrigation and Soil Conservation	Revenue	2,77,05,38,106		2,77,05,38,106
67	Other expenditure pertaining to Narmada and Water Resources Department	Revenue		21,00,718	21,00,718
72	Other expenditure pertaining to Panchayats and Rural Housing Department	Revenue	1,10,87,194		1,10,87,194
73	Fisheries	Capital	32,68,600		32,68,600
78	District Administration	Revenue	1,53,07,635		1,53,07,635
80	Dangs District	Revenue	1,64,44,858		1,64,44,858
81	Compensation and Assignments	Revenue	32,31,535		32,31,535
83	Roads and Buildings Department	Revenue	4,15,752		4,15,752
84	Non-Residential Buildings	Revenue	31,85,08,200	4,35,237	31,89,43,437
85	Residential Buildings	Revenue	6,36,50,707		6,36,50,707
86	Roads and Bridges	Revenue	46,73,79,058		46,73,79,058
		Capital	1,64,59,307		1,64,59,307
87	Gujarat Capital Construction Scheme	Revenue	19,95,114		19,95,114
		Capital	48,42,114		48,42,114
88	Other expenditure pertaining to Roads and Building Department	Revenue	1,83,02,868		1,83,02,868
89	Social Welfare and Tribal Development Department	Revenue	3,74,398		3,74,398
90	State Excise	Revenue	13,84,857		13,84,857
91	Social Security and Welfare	Revenue	41,29,638		41,29,638
101	Youth Services and Cultural Activities Department	Revenue	98,076		98,076
102	Youth Services and Cultural Activities	Revenue	1,51,515		1,51,515
	Total	Revenue	4,78,67,41,647	26,62,834	4,78,94,04,481
		Capital	85,21,71,626	-	85,21,71,626
	Grand Total		5,63,89,13,273	26,62,834	5,64,15,76,107

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 205 of the Constitution of India read with article 204 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the excess expenditure incurred on certain services and purposes during the financial year ending on the thirty-first day of March, 1996.

The amounts are shown below: Rs.

(a) Revenue Account	4,78,94,04,481
(b) Capital Account	85,21,71,626

Total: 5,64,15,76,107

Gandhinagar,
Dated the 16th March, 2011.

VAJUBHAI VALA.

By Order and in the name of the Governor of Gujarat,

Gandhinagar.
Dated the 17th March, 2011.

C. J. GOTHI,
Secretary,
to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



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PART V

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT GREEN CESS BILL, 2011.

GUJARAT BILL NO. 20 OF 2011.

A BILL

to provide for levy of cess on generation of electricity other than renewable energy for creation of a fund for protecting environment and promoting the generation of electricity through renewable sources in the State of Gujarat and for the matters connected therewith and incidental thereto.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Gujarat Green Cess Act, 2011.
- (2) It extends to the whole of the State of Gujarat.
- (3) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in *Official Gazette*, appoint.

Short title,
extent and
commencement.

Definitions. 2. In this Act, unless the context otherwise requires, -

- (a) “cess” means a Green cess levied on generation of electricity in the State under section 3;
- (b) “Collector” means the Collector of Green Cess appointed under section 8;
- (c) “captive generating plant” shall have the meaning as defined in clause (8) of section 2 of the Electricity Act, 2003;
- (d) “electricity” means the electrical energy generated;
- (e) “fund” means the Green Energy Fund established under sub-section (1) of section 5;
- (f) “generating company” means any company or body corporate or association or body of individuals, whether incorporated or not, or any individual or artificial juridical person, which owns or operates or maintains a generating station or a captive generating plant or stand-by generating plant;
- (g) “generation of energy” means gross generation of electricity including auxiliary consumption and the electricity lost due to technical or any other fault in any generating station, captive generating plant or stand-by generating plant in the State;
- (h) “generating station” means any station for generating electricity, including any building and plant with step-up transformer, switch-gear, switch yard, cables or other appurtenant equipment, if any, use for that purpose and the site thereof; a site intended to be used for a generating station and any building used for housing the operating staff of a generating station;
- (i) “Inspector” means the person appointed as such under section 8;
- (j) “prescribed” means prescribed by rules made under this Act;
- (k) “renewable energy” means the electricity generated from the solar, wind, bio-energy, liquid-solid wastes, hydro power plants or by the use of baggass or agro-wastes or electricity generated from such other sources as the State Government may by notification in the *Official Gazette*, specify;
- (l) “rules” means rules made under this Act.

36 of 2003.

CHAPTER II LEVY OF GREEN CESS

- 3.** (1) There shall be levied and collected a cess for the purposes of this Act, on generation of electricity except on generation of renewable energy by the generating company at the generating station or at the captive generating plant or the stand by generating plant. **Levy and collection of cess.**
- (2) Such cess under sub-section (1) shall be levied and payable on the electricity generated in the State of Gujarat irrespective of the fact whether such electricity is consumed within the State or not.
- (3) Such cess under sub-section (1) shall be levied in such manner and at such rate not exceeding twenty paise per unit of the electricity generated as may be prescribed.
- (4) The State Government may by notification in the Official Gazette, exempt from payment of the cess, the generating company having aggregate installed capacity of not more than one thousand kilowatts.
- (5) The cess levied under sub-section (1) shall be payable by the generating company.
- 4.** The proceeds of the cess, interest and penalty recovered under this Act shall first be credited to the Consolidated Fund of the State, and after deduction of the expenses of collection and recovery there from shall, under appropriation duly made by law in this behalf, be entered in and transferred to a separate fund called the Green Energy Fund, for being utilized exclusively for the purposes of this Act. **Crediting of proceeds to Consolidated Fund of State.**
- 5.** (1) There shall be established a fund called "Green Energy Fund" for the purpose of this Act. **Establishment of Green Energy Fund.**
- (2) The Fund shall be under the control of the State Government and there shall be credited therein-
- (a) any sums of money paid under section 4;
 - (b) the sums by way of any grant by the State Government.
- 6.** (1) The Fund shall be utilised for - **Management of Fund.**
- (a) promoting the generation of electricity through renewable energy,
 - (b) purchase of non-conventional energy, and
 - (c) taking initiatives for protecting environment in the State.
- (2) The State Government shall have the power to administer the Fund and shall take such decisions as may be required for the proper utilization of the Fund.

(3) The State Government shall also have the power to allocate and disburse such sums from the Fund as it considers necessary to the concerned Departments responsible for achieving the objects of this Act.

CHAPTER III REGISTRATION

Registration.

7. (1) Whoever generates electricity in the State shall be required to apply for and obtain a registration certificate from the Collector of Green Cess:

Provided that the collector may, subject to such conditions as may be prescribed, grant exemption from obtaining the registration to a person or to a class of persons having regard to the provisions of sub-section (4) of section 3.

(2) The application for the registration shall be made in such form and within such period as may be prescribed.

(3) On receipt of an application for registration under sub-section (2), the Collector on its satisfaction, may issue a certificate of registration in such form as may be prescribed.

CHAPTER IV CESS AUTHORITIES

**Cess
authorities.**

8. (1) For carrying out the purpose of this Act, the State Government shall appoint a person to be the Collector of Green Cess for the whole of the State of Gujarat and such other officers and employees to assist the Collector as the State Government may think fit who shall exercise such powers and perform such duties as may be conferred or imposed on them by the Collector.

(2) The State Government may by notification in the *Official Gazette*, appoint any persons as it thinks fit to be Inspectors for the purposes of this Act who shall exercise such powers and perform such duties as may be conferred or imposed on them by or under this Act within the limits of such area as the State Government may specify therein.

**Powers and
duties of
Cess
Authorities.**

9. (1) The Collector or the Inspector may for the purposes of this Act-

- (i) require production for inspection of such books and records as may be necessary for ascertaining or verifying the amount of Cess leviable under this Act;
- (ii) enter and search any premises where electricity is or is believed to be generated for the purpose of-
 - (a) verifying the statements made in the books of account kept, and returns submitted,

- (b) reading and getting tested the various meters and generator panels in the prescribed manner,
- (c) verifying the particulars required in connection with the levy of cess,
- (iii) exercise such other powers and perform such other duties as may be necessary for carrying out the purposes of this Act or the rules made thereunder.

2 of 1974.

(2) All searches made under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973.

CHAPTER V BOOKS OF ACCOUNTS, RETURNS AND ASSESSMENT

10. (1) Each generating company shall install a meter for recording gross generation of electricity as provided in Central Electricity Authority (Installation and Operation of meters) Regulations, 2006 and same shall be maintained and operated in a manner as may be prescribed.

Accounts.

(2) Each generating company liable to pay cess as per the provisions of this Act, shall keep and maintain books of account in the prescribed form and shall submit to the Collector, returns in such form and at such times as may be prescribed, showing the units of energy generated, the amount of cess payable and that paid, fuel used and such other details as may be prescribed.

11. (1) The amount of cess due from a generating company shall be assessed by the Collector in the manner as may be prescribed.

Assessment.

(2) If the Collector is satisfied that the returns furnished by a generating company are correct and complete, he shall assess the amount of cess due from the generating company on the basis of such returns.

(3) If the Collector is not satisfied that the returns furnished in respect of any period are correct and complete, he shall serve on such generating company a notice requiring it to produce or caused to be produced all evidences on which such generating company relies in support of his returns. The Collector shall after considering all the evidences which may be produced, assess the amount of cess due from the generating company.

(4) If a generating company fails to respond to the notice within the time limit as stated in the notice issued under sub-section (3), the Collector shall assess, to the best of his judgment, the amount of cess due from it.

CHAPTER VI RECOVERY

12. (1) Where a generating company, which is liable to pay cess in the time-limit as prescribed, does not pay such amount of cess within such time-limit, there shall be paid by such generating company, for the period

Recovery.

commencing on the date of expiry of the aforesaid period and ending on the date of payment of the amount of cess, simple interest at the rate as may be prescribed, not exceeding eighteen per cent. per annum.

(2) All sums payable as cess or interest under this Act, if not paid within the prescribed period shall be deemed to be in arrears, and thereupon the amount of cess along with amount of interest to be levied under this Act, shall be recoverable as an arrear of land revenue.

(3) Where any generating company is liable to pay any amount on account of this cess, penalty or interest, and it pays amount less than amount due, the amount so paid shall be first applied towards the amount of interest, thereafter the balance, if any, towards penalty and thereafter the balance, if any, towards the amount of cess.

CHAPTER VII PENALTIES

Penalty. 13. If any generating company fails to obtain the registration certificate as required under section 7 shall on conviction be punished with fine which may extend to rupees one lakh per one Megawatt of the aggregate installed capacity of such generating company and shall also be liable to pay such cess alongwith interest referred to in section 12 for the generation of electricity as is otherwise payable.

Penalty for failure to keep books of accounts, etc. 14. If any generating company-

- (a) fails to keep books of account or to submit returns in accordance with the provisions of this Act and rules made there under, or
- (b) produces false accounts, registers or documents, or knowingly furnishes false information, or
- (c) wilfully obstructs the Collector or any inspector in the exercise of the powers conferred upon him by or under this Act, or
- (d) aids or abets any person in the commission of any act specified in clause (a), (b) or (c) of this section,

shall on conviction, be punished with fine which may extend to ten thousand rupees.

Penalty for tempering with meters, etc. 15. (1) Whoever, dishonestly,-

- (i) tampers with a meter, installs or uses a tampered meter, installs or uses current reversing transformer, loop connection or resorts to any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity generated is not correctly recorded; or

- (ii) damages or destroys an electric meter, apparatus, equipments or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering and recording of electricity for the purpose of this Act, or
- (iii) uses such means which can lead to the obstruction of the correct reading of the electricity generated,

shall be punishable with fine which shall not be less than on the first detection, the financial gain on account of such transgression and in the event of second or subsequent detection the fine imposed shall not be less than two times the financial gain on account of such transgression.

(2) For calculation of such financial gain, it shall be presumed that such generating company has been generating electricity continuously for a period of-

- (a) 1 year in case where aggregate installed capacity is less than 10 MW, and
- (b) 2 years in other cases,

immediately preceding the date of inspection or detection, whichever is earlier, unless contrary is proved. It shall also be presumed that such generating company was generating electricity at full installed capacity throughout such period.

CHPATER VIII APPEAL AND REVISION

16. (1) Any generating company or a person aggrieved by the decision of the Collector under sections 11, 13, 14 and 15 may prefer an appeal to the State Government within sixty days from the date of such decision :

**Appeal and
revision.**

Provided that no appeal against an order of assessment under section 11 shall be entertained by the State Government unless such appeal is accompanied by satisfactory proof of payment of fifty per cent. of cess directed to be paid by the Collector in respect of which an appeal has been preferred.

(2) Where no appeal is preferred against a decision of the Collector, the State Government may of its own motion or otherwise within one year from the date of any order passed by the Collector call for and examine the record of any proceedings of the Collector for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of the Collector and pass such order thereon as it thinks fit.

(3) The order passed by the State Government in appeal or revision shall be final and shall not be called in question in any court of law.

CHPATER IX
PENALTIES NOT TO AFFECT OTHER LIABILITIES

**Penalties not
to affect
other
liabilities.**

17. The penalties imposed under this Act shall be in addition to, and not in derogation of, any offence or liability in respect of any contravention of the provisions of any other Act.

CHPATER X
MISCELLENEOUS

**Officers and
employees to
be public
servants.**

18. The Collector, Inspectors and other officers and employees appointed under this Act shall be deemed to be the public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Indemnity.

19. No suit, prosecution or other legal proceedings shall lie against any officer or employee appointed under this Act for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules made there under.

**Power to
make rules**

20. (1) The State Government may make by notification in the *Official Gazette*, rules generally for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:-

- (a) manner and rate for levy and collection of cess under sub-section (3) of section 3;
- (b) conditions for grant of exemption for obtaining registration under sub-section (1) of section 7;
- (c) form of application for registration and period under sub-section (2) of section 7;
- (d) form of certificate of registration under sub-section (3) of section 7;
- (e) other powers and duties of cess authorities under section 9;
- (f) manner and form for maintaining books of accounts and returns and submission of returns under section 10;
- (g) manner in which the assessment shall be made by the Collector;
- (h) rate of simple interest payable under sub-section (1) of section 12; or
- (i) such other matters which is to be or may be, prescribed under this Act.

(3) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*:

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made, and shall be subject to recession by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

21. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removal of difficulty:

**Power to
remove
difficulties.**

Provided that no such order shall be made under this section after the expiry of two years from the date of the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

The Finance Minister in his Budget speech on 25th February, 2011 for the year 2011-2012 in the Gujarat Legislative Assembly, had observed that the conventional energy affects the environment and as such it is essential to promote “clean and green energy” in the State of Gujarat and for that purpose generation of clean and green energy should be given fillip and for providing funding for purchase of non-conventional energy and protection of environment, the State Government intends to set-up “Green Energy Fund” and for that purpose has proposed to levy cess on the generation of electricity except generated through renewable sources. This Bill seeks to achieve the aforesaid object.

The following notes on clauses explain the important provisions of the Bill: -

Clause 1.- This clause provides for short title, extent and commencement.

Clause 2.- This clause defines certain terms used in the Bill.

Clause 3.- This clause provides for levy of cess on generation of electricity except renewable energy from generating company. It also provides for grant of exemption from payment of cess to the generating company, by the State Government whose installed capacity is not more than 1000 KW.

Clause 4.- This clause provides for the proceeds of the cess and interest to be credited into Consolidated Fund of the State and thereafter to be transferred to Green Energy Fund.

Clauses 5 and 6.- These clauses provide for the establishment of the Green Energy Fund and utilisation of the fund specified therein.

Clause 7.- This clause provides for obtaining the certificate of registration by the generating company and the exemption therefrom.

Clauses 8 and 9.- These clauses provide for the appointment of cess authorities and their powers and duties.

Clause 10.- This clause provides for maintenance of books of accounts and submission of returns by the generating company.

Clause 11.- This clause provides for the assessment of the cess due from a generating company.

Clause 12.- This clause provides for levy and collection of cess and interest thereon if any.

Clause 13.- This clause provides for penalty for failure to obtain certificate of registration.

Clauses 14 and 15.- These clauses provide for consequences for breach of the provisions of the Act and rules and also provide for penalty of dishonest acts of the generating company.

Clause 16.- This clause provides for appeal to the State Government against the decision of the Collector under clauses 11, 13, 14 and 15 and the revisional powers of the State Government.

Clause 17.- This clause provides that penalty imposed under this Act shall be in addition to and not in derogation of the provisions of other Acts.

Clause 18.- This clause provides that the officers and employees appointed under this Act shall be public servants.

Clause 19.- This clause provides for usual indemnity for acts done in good faith.

Clause 20.- This clause empowers the State Government to make, by notification in the Official Gazette, rules, subject to previous publication, generally for carrying out the purposes of this Act and particularly for the matters as specified therein.

Clause 21.- This clause empowers the State Government to remove difficulties arising within two years from the commencement of the Act.

SAURABH PATEL,

FINANCIAL MEMORANDUM

Clause 8 of the Bill empowers the State Government to appoint the Collector of Green Cess, Inspectors and other officers and employees for the purposes of this Act. At present, the officers and the employees of the office of Collector of Electricity Duty as well as the office of the Chief Electrical Inspector will act as the cess authorities and therefore, the provisions of the Bill if enacted and brought into force would not involve any additional expenditure on the Consolidated Fund of the State.

SAURABH PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers in the following respects, namely :-

Clause 1.- Sub-clause (3) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the remaining provisions of the Act shall come into force.

Clause 2.- Sub-clause (i) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, the other sources of renewable energy.

Clause 3.- (i) Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the manner and the rate at which the cess shall be levied;

(ii) sub-clause (4) of this clause empowers the State Government to exempt from the payment of cess by notification in the *Official Gazette*, the generating company whose aggregate installed capacity is not more than 1000 KW.

Clause 7.- (i) Proviso to sub-clause (1) of this clause empowers the State Government to prescribe by rules, the conditions subject to which the Collector may grant exemption for obtaining the registration;

(ii) sub-clauses (2) and (3) of this clause empower the State Government to prescribe by rules, the form of application for registration and the period within which the application shall be made and the form of the certificate of registration.

Clause 8.- This clause empowers the State Government to appoint the Collector, Inspectors and other officers and employees for the purposes of this Act.

Clause 9.- This clause empowers the State Government to prescribe by rules, the manner in which the meters and the generator panels would be got tested.

Clause 10.- This clause empowers the State Government to prescribe by rules, the forms of accounts and returns and the manner in which the same shall be maintained and submitted.

Clause 11.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules the manner in which the amount of cess due from a generating company shall be assessed.

Clause 12.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the rate of simple interest payable in case where the cess is not paid within the time limit.

Clause 20.- This clause empowers the State Government to make, by notification in the *Official Gazette*, rules, subject to previous publication, generally for carrying out the purposes of this Act and particularly for the matters as specified therein.

Clause 21.- This clause empowers the State Government to remove difficulties arising within two years from the commencement of the Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 17th March, 2011.

SAURABH PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 18th March, 2010.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT MONEY-LENDERS BILL, 2011.

GUJARAT BILL NO. 21 OF 2011.

A BILL

to regulate the transaction of money-lending in the State of Gujarat.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Gujarat Money-Lenders Act, 2011.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title,
extent and
commencement.

Ex-V-21-1

21-1

Definitions.

2. In this Act, unless the context otherwise requires, -

(1) "appointed day" means the date on which this Act comes into force;

(2) "bank" means -

(i) a banking company or a co-operative bank to which the Banking Regulations Act, 1949 applies; 10 of 1949.

(ii) the State Bank of India constituted under the State Bank of India Act, 1955; 23 of 1955.

(iii) a Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959.

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980; and 5 of 1970.
40 of 1980.

(v) a regional rural bank established under section 3 of the Regional Rural Banks Act, 1976; 21 of 1976.

(3) "business of money-lending" means the business of advancing loans, whether in cash or kind and whether or not in connection with or in addition to, any other business and includes the business of payment of loan by an agreement under any law for the time being in force;

(4) "capital" means a sum of money which a Money-Lender invests in the business of money-lending;

(5) "company" means a company as defined in the Companies Act, 1956; 1 of 1956.

(6) "co-operative society" means a society registered or deemed to have been registered under the Gujarat Co-operative Societies Act, 1961 or any other Act relating to co-operative societies and includes a Multi State Co-operative Society registered under the Multi State Co-operative Societies Act, 2002; Guj. 10 of 1962.
39 of 2002.

(7) "debtor" means a person to whom a loan is advanced and includes a successor-in-interest or surety;

(8) "interest" includes the sum to be made over and above principal amount lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise, but does not include any sum lawfully charged by Money-Lender as costs, charges, expenses, towards evaluation, assessment and creation of the security;

(9) "loan" means an advance whether of money or in kind, at an interest, with or without security, and includes advance,

discount, money paid for or on account of or on behalf of or at the request of any person, or the forbearance to require payment of money owing on any account whatsoever, and every agreement under any law for the time being in force (whatever its terms or form may be) which is in substance or effect a loan of money, but does not include -

- (a) a deposit of money or other property in a Government post office, a bank, a company or a co-operative society;
- XXI of 1860. (b) a loan to, or by, or a deposit with any society or association registered under the Societies Registration Act, 1860, or any other enactment relating to a public, religious or charitable object;
- (c) a loan advanced by the State Government or by any local authority authorized by the State Government;
- (d) a loan advanced to a Government employee from a fund, established for the welfare or assistance of Government employees and which is sanctioned by the State Government;
- (e) a deposit of money with or a loan advanced by a co-operative society;
- (f) an advance made to a subscriber to, or a depositor in, a provident fund from the amount standing to his credit in the fund in accordance with the rules of the fund;
- 4 of 1938. (g) a loan to or by an insurance company as defined in the Insurance Act, 1938;
- I of 1956. (h) a loan advanced by a Government company as defined in the Companies Act, 1956;
- (i) an advance made *bona fide* by any trader carrying on any business, other than money-lending, if such advance is made in the regular course of such business;
- 61 of 1981. (j) a loan advanced by the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981;
- 28 of 1981. (k) a loan advanced by the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981;
- 39 of 1989. (l) a loan advanced by the Small Industries Development Bank of India, established under the Small Industries Development Bank of India Act, 1989;
- 53 of 1987. (m) a loan advanced by the National Housing Bank, constituted under the National Housing Bank Act, 1987 ;

- (n) a loan advanced by State Financial Corporations established under the State Financial Corporations Act, 1951 ; and 63 of 1951.
- (o) a loan advanced by any institution -
- (1) established by or under an Act of Parliament or the legislature of a State, which grants any loan or advance in pursuance of the provisions of that Act, or
 - (2) notified in this behalf by the State Government, in consultation with the Reserve Bank;
- (10) "Money-Lender" means-
- (i) an individual, or
 - (ii) a Hindu Undivided Family, or
 - (iii) a company, or
 - (iv) a pawn-broker, or
 - (v) an unincorporated body of individuals, including a firm, who or which -
 - (a) carries on the business of money-lending in the State, or
 - (b) has his or its principal or subsidiary place of such business in the State;
- (11) "pawn-broker" means a Money-Lender who in the ordinary course of his business advances a loan and takes goods in pawn as security for payment of such loan;
- (12) "prescribed" means prescribed by rules;
- (13) "principal" means, in relation to a loan, the amount actually advanced to the debtors; and if the loan is in kind, the value of the quantity of the thing or commodity advanced, calculated at the market rate of price of such thing or commodity prevailing on the date of the advance;
- (14) "provident fund" means a provident fund as defined in the Provident Funds Act, 1925 and includes a Government provident fund and a railway provident fund as defined in the said Act; 19 of 1925.
- (15) "register" means a register of Money-Lenders maintained under section 4;
- (16) "registration" means registration granted to a Money-Lender under section 7;

- (17) "Registrar" means Registrar of Money-Lenders appointed under section 3;
- (18) "Registrar General" means the Registrar General of Money-Lenders appointed under section 3; and includes the Additional Registrar General of Money-Lenders;
- (19) "rules" means rules made under this Act;
- (20) "State" means the State of Gujarat;
- (21) "Suit to which this Act applies" means any suit or proceedings -
- (a) for the recovery of a loan made after the date on which this Act comes into force;
 - (b) for the enforcement of any security taken, or any agreement, made after the date on which this Act comes into force in respect of any loan made either before or after the said date; or
 - (c) for the redemption of any security given in respect of any loan advanced by a Money-Lender;
- (22) "trader" means a person who in the regular course of business buys and sells goods or other property whether movable or immovable, and includes -
- (i) a wholesale merchant,
 - (ii) a commission agent,
 - (iii) a broker,
 - (iv) a manufacturer,
 - (v) a contractor,
 - (vi) a factory owner,

but does not include, a person who sells his agricultural produce or cattle or buys agricultural produce or cattle for his use or an artisan.

Explanation.- For the purposes of this clause, "an artisan" means a person who does not employ more than ten workers in a manufacturing process on any one day of the twelve months immediately preceding.

CHAPTER II AUTHORITIES

3. (1) For carrying out the purposes of this Act, the State Government shall appoint -

- (i) an officer to be called the Registrar General of Money-Lenders, and to assist him, may appoint Additional Registrar General of Money-Lenders and Joint Registrar

Authorities for
implementation
of the Act.

General of Money-Lenders for the whole of the State of Gujarat;

- (ii) such number of Registrars of Money-Lenders, Assistant Registrars of Money-Lenders and other officers and persons with such designations as the State Government thinks necessary.

(2) The State Government may, by notification in the *Official Gazette*, specify the areas of his jurisdiction within which the officer appointed under sub-section (1) shall exercise such powers and perform such duties as may be conferred or imposed upon them by or under this Act.

(3) The superintendence and control for the proper execution of the provisions of this Act and the rules made thereunder shall vest in the Registrar General.

CHAPTER III PROVISIONS RELATING TO REGISTRATION

Register of
Money-Lenders.

4. Every Registrar shall maintain a register of Money-Lenders in the prescribed form, to whom registrations have been granted for carrying on the business of money-lending in the area within his jurisdiction.

No business of
money-lending
except
registration.

5. (1) No Money-Lender shall commence or carry on the business of money-lending except in the area for which he has been granted a registration and except in accordance with the terms and conditions of such registration.

(2) Non-banking finance companies registered under the provisions of the Reserve Bank of India Act, 1934, with the Reserve Bank of India shall be deemed to have been registered for the purposes of this Act and they shall intimate to the concerned Registrar about their such registration with the Reserve Bank of India in the prescribed proforma.

2 of 1934.

Application
for
Registration.

6. (1) A person who intends to commence or to carry on the business of money-lending in any area may make an application in writing in the prescribed form for the grant of registration to the Registrar having jurisdiction.

(2) An application under sub-section (1) shall contain the following particulars, namely :-

- (a) if the application is by or on behalf of -
- (i) an individual, the name and address of such individual;
 - (ii) a Hindu Undivided Family, the name and addresses of the manager and the adult coparceners of such family;
 - (iii) a company, the name and addresses of the directors, manager or principal officer managing it;

- (iv) an unincorporated body of individuals, the names and addresses of such individuals; and if such body is a firm, the names and addresses of all its partners;
 - (b) the name in which the applicant intends to carry on the business of money-lending and the name of the person who shall be responsible for the management of the business;
 - (c) the area in which he intends to carry on the business and the name of the place at which he intends to carry on the business in that area; and if he intends to carry on the business at more than one place in such area, the names of the principal place and other places at which he intends to carry on the business;
 - (d) the name of any other place outside such area, if any, at which he intends to carry on the business;
 - (e) whether the person signing the application himself, or any of the adult co-parceners of a Hindu Undivided Family or any director, manager or the principal officer of the company or any member of the unincorporated body or any partner of the firm on behalf of which such application has been made, as the case may be, has carried on the business of money-lending in the State in the year ending on the 31st day of March immediately preceding the date of the application either individually or in partnership, or jointly with any other coparcener or any other person and whether in the same name or in any other name;
 - (f) the total amount of the capital along with its source which such person intends to invest in the business of money-lending in the year for which the application has been made;
 - (g) if the places at which the business of money-lending is to be carried on are more than one, the names of persons who shall be in the management of the business at each such place;
 - (h) such other particulars as may be prescribed.
- (3) The application made under sub-section (1) shall be signed, -
- (a) (i) by the individual, if the application is made by an individual;
 - (ii) by the manager of a Hindu Undivided Family, if the application is made on behalf of such family;

(iii) by the managing director or any other person duly authorized and having control of its principal place of business in the area in which it intends to carry on the business, if the application is made by a company or an unincorporated body of individuals;

(iv) by any partner of the partnership firm, if the application is made by a firm; or

(b) by an agent authorized in this behalf by a power of attorney, by the person authorized to sign such application referred to in clause (a).

(4) No application for grant of registration shall be entertained by the Registrar unless it is accompanied by an application fee at the rates, as may be notified by the Registrar General from time to time. The fees payable under this sub-section shall be non-refundable.

**Grant of
Registration.**

7. (1) On receipt of an application made under section 6, the Registrar shall after making such inquiry as may be necessary and on payment of registration fees as may be prescribed by the State Government, grant the certificate of registration in such form and subject to such conditions as may be imposed, and enter the name of such applicant in the register maintained under section 4, or may refuse to grant registration after recording the reasons for the same.

(2) The registration granted under sub-section (1) shall specify the area for which such registration is granted and the place at which the Money-Lender intends to carry on his business in such area.

(3) If the Money-Lender is granted registration in respect of more than one place of business in the area within the jurisdiction of the Registrar, the registration shall specify the principal place as well as all other places of his business and also the names of persons responsible for the management of the business at each such place.

(4) If a Money-Lender who holds a registration for carrying on the business of money-lending in any area within the jurisdiction of the Registrar is desirous of carrying on such business in some other area in the State within the jurisdiction of some other Registrar, he may make an application for grant of a registration under section 6 to such other Registrar, accompanied by the requisite registration fee and true copies of certificate of registration held by him and the fees paid therefore. On receipt of the application as aforesaid, the Registrar may grant to the applicant the registration under sub-section (1) for such other area without making any inquiry referred to in sub-section (1) unless there are reasonable grounds for making an inquiry.

(5) The application fees paid under sub-section (1) or (4) shall not be refunded, notwithstanding the fact that the registration is refused or the application is withdrawn.

**Term of
Registration.**

8. Subject to the provisions of this Act, -

- (a) a registration granted under section 7 shall be valid for a period of five years from the date on which it is granted;
- (b) a registration validly in force on the appointed day shall be valid till the next 31st day of March of the year in which this Act comes into force.

9. (1) On the expiry of the period of validity of a registration under section 8, the registration shall be liable to be renewed on an application for renewal made, in such form and with such fees and within such period as may be prescribed, before the expiry of the validity of the registration :

**Renewal of
Registration.**

Provided that the Registrar may, in any case in which he is satisfied that the applicant could not make an application for renewal of a registration within the prescribed period for reasons beyond his control, he may, for reasons to be recorded in writing, condone such delay; and may renew the registration on payment of such penalty as may be prescribed by the State Government, in addition to the renewal fee.

(2) The provisions of section 6 shall, so far as may be, apply to an application for renewal of a registration as if it were an application for grant of a registration.

(3) Where an application for renewal of registration has been made to the Registrar within the period prescribed under sub-section (1) but has not been disposed of before the expiry of the period of validity of the registration under section 8, the registration shall, notwithstanding the expiry of such period, be deemed to be valid until such application is disposed of.

10. (1) The grant or renewal of registration shall not be refused except on any of the following grounds :-

**Refusal for
grant or
renewal of
registration.**

- (a) that the applicant or any person responsible or proposed to be responsible for the management of his business as a Money-Lender is disqualified under this Act;
- (b) that the applicant has not complied with the provisions of this Act or the rules made thereunder in respect of an application for the grant or renewal of registration;
- (c) that the applicant has made wilful default in complying with, or knowingly acted in contravention of any provision of this Act;
- (d) that satisfactory evidence has been produced that the applicant or any person responsible for the management of his business of money-lending has-
 - (i) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in

connection with, the business of money-lending,
or

- (ii) been found guilty of an offence under Chapter XVII or section 465, 477 or 477-A of Chapter XVIII of the Indian Penal Code;

XLV of 1860.

- (e) that the applicant has made an application for grant or renewal of registration, during the period for which his registration has been suspended or during the period for which he has been disqualified under this Act for holding registration;

- (f) that the applicant or the person responsible or proposed to be responsible for the management of the business of money-lending, being a member of a family of a Hindu Undivided Family or a member of a board of directors of a company or a member of an unincorporated body of individuals or a partner of a firm who has been refused the grant or renewal of registration under any of the clauses (a) to (e); and

- (g) such other grounds as may be prescribed.

(2) The Registrar shall, before refusing to grant or renew registration under sub-section (1), give to the applicant a reasonable opportunity of producing evidence, if any, in support of the application and of showing cause as to why the grant or renewal of registration should not be refused; and record the evidence adduced before him and the reasons for such refusal.

(3) An appeal shall lie to the Registrar General against the order of the Registrar refusing the grant or renewal of registration under sub-section (1) and the decision of the Registrar General, thereon shall be final.

**Grant of
duplicate
certificate of
Registration.**

11. When a certificate of registration is lost, mutilated, destroyed, torn or otherwise defaced, a duplicate certificate of registration may be granted to the Money-Lender on an application made to the Registrar along with such fees as may be prescribed by the State Government.

**Power of
Registrar to
inspect.**

12. The Registrar shall, by an order, provide for the periodical inspection by such officers appointed under this Act for the purposes of sections 18 and 19.

**Suspension
of
Registration.**

13. (1) Where a complaint has been filed in a court against a Money-Lender for contravention of any of the provisions of this Act or the rules made thereunder or any inquiry is pending under sub-section (2) of section 14 or under sub-section (1) of section 15 against such Money-Lender, the Registrar may suspend the registration of such Money-Lender until the case is decided by the court or, as the case may be, final order in such inquiry is passed.

(2) An appeal shall lie from the order of the Registrar suspending registration under sub-section (1) to the Registrar General, whose decision shall be final.

14. (1) Any person may file an application to the Registrar General for the cancellation of registration issued to a Money-Lender on the ground that such Money-Lender has been guilty of any act or conduct for which the Registrar may under section 10 refuse the grant of registration. At the time of filing such application, the person shall deposit such amount not exceeding rupees five hundred as the Registrar General may direct.

Application to Registrar General for cancellation of Registration.

(2) On receipt of such application alongwith deposit, the Registrar General shall hold such inquiry as he deems fit and if he is satisfied that the Money-Lender has been guilty of such act or conduct, he may direct the Registrar to cancel the registration of such Money-Lender and thereupon the Registrar shall, by an order in writing, cancel such registration :

Provided that no such direction shall be issued without giving to such Money-Lender a reasonable opportunity of being heard.

(3) If in the opinion of the Registrar General, an application made under sub-section (1) is frivolous or vexatious, he may, out of the deposit made under sub-section (1), direct to be paid to the Money-Lender such amount as he deems fit as compensation and balance amount of deposit to be forfeited to the State Government and where no amount is directed to be paid to the Money-Lender direct the whole amount to be forfeited to the State Government, and in any other case the Registrar General may on completion of the proceedings under this section, direct the whole amount of the deposit to be returned to the depositor.

(4) A Money-Lender whose registration has been cancelled under this section shall be disqualified for holding registration in the State for such period, not exceeding three years, as the Registrar may direct.

(5) Any Money-Lender who is aggrieved by the order of the Registrar under this section may file an appeal to the State Government within a period of sixty days from the date of receipt of such order, and the order of the State Government on such appeal shall be final and shall not be called in question in any court.

15. (1) Notwithstanding anything contained in section 14, if the Registrar has reason to believe with respect to any Money-Lender holding registration for the area within his jurisdiction that such Money-Lender has been guilty of any act or conduct for which the Registrar might under section 10 have refused the grant or renewal of the registration and which act or conduct was not brought to the notice at the time of grant or renewal of such registration, or that such Money-Lender has contravened any of the provisions of this Act after the grant or renewal of such registration and if in the opinion of the Registrar such

Power of Registrar to cancel registration in certain circumstances.

contravention makes such Money-Lender unfit for carrying on the business of money-lending, the Registrar may, after holding such inquiry as he deems fit and after giving to such Money-Lender a reasonable opportunity of being heard, by an order in writing, cancel such registration.

(2) A Money-Lender whose registration has been cancelled under sub-section (1) shall be disqualified for holding registration in the State for such period, not exceeding three years as the Registrar may specify in the order of cancellation of his registration.

(3) A Money-Lender who is aggrieved by the order of the Registrar under this section may file an appeal within a period of sixty days from the date of receipt of such order to the Registrar General, whose decision shall be final.

No compensation or refund of fees for suspension or cancellation of registration.

16. Where any registration is suspended or cancelled under this Act, no person shall be entitled to any compensation or refund of any fees paid under this Act.

Money-Lender debarred from carrying on business during suspension or cancellation of registration.

17. (1) A Money-Lender whose registration has been suspended or cancelled in accordance with the provisions of this Act or any corresponding law in force in any other State shall, during the period of such suspension or cancellation, as the case may be, be disqualified from holding any registration in the State of Gujarat and shall forthwith cease to carry on business of money-lending in the State of Gujarat.

(2) No Money-Lender shall lend any money to a member of the Scheduled Tribes residing in Scheduled Areas of the State as referred to in clause (1) of article 244 of the Constitution of India, without previous sanction of the village panchayat of that village.

CHAPTER IV SEARCH AND SEIZURES

Registrar General and other officers to have powers of civil courts for certain purposes.

18. The Registrar General, Registrar, Assistant Registrar and any officer authorized under section 19 shall have and exercise the same powers for the purpose of making inquiries under this Act as are vested in Courts under the Code of Civil Procedure, 1908 in respect of the following matters, namely:-

V of 1908.

- (a) enforcing the attendance of any person as a witness and examining him on an oath;
- (b) compelling the production of documents and material objects;
- (c) issuing commissions for the examination of witnesses; and
- (d) proof of facts by affidavits.

19. (1) For the purpose of verification whether the business of money-lending is carried on in accordance with the provisions of this Act or not, the Registrar General, Registrar or any other officer authorized by the Registrar General in this behalf may require any Money-Lender or any person in respect of whom the Registrar General, Registrar, or the officer so authorized has reason to believe that he is carrying on the business of money-lending in the State, to produce any record or document in his possession which in his opinion is relevant for the purpose and thereupon such Money-Lender or person shall produce such record or document.

Powers of certain officers to require production of record on documents, search and seizure, etc.

(2) The Registrar General, Registrar or any officer authorized under sub-section (1) may enter and search without warrant any premises where he has reason to believe that an offence under this Act has been or is being or is about to be committed and may seize any record or document found therein or from any person therein which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act and he may, so far as may be necessary for the purpose of such search or seizure, detain any person whom he has reason to believe to have committed an offence punishable under this Act.

2 of 9174.

(3) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures made under that Code.

20. (1) If, upon the inspection of records and documents made under section 19, the inspecting officer is satisfied that the Money-Lender is in possession of property pledged to him by a debtor as security for the loan advanced by the Money-Lender without a valid registration, the inspecting officer shall require the Money-Lender to deliver forthwith the possession of such property to him.

Disposal of property pledged or mortgaged with Money-Lender carrying on business of money-lending without valid registration.

(2) Upon the property being delivered to him, the inspecting officer, if he is not the Registrar, shall entrust it to the Registrar and the Registrar (when he is also the inspecting officer) shall keep it in his custody for being disposed of as hereinafter provided.

(3) On delivery of the property under sub-section (1) or sub-section (2), the Registrar shall, after due verification and identity thereof, return it to the debtor who has pledged it or, where the debtor is dead, to his legal heir.

(4) If the debtor or his legal heir cannot be traced, the Registrar shall, within ninety days from the date of taking possession of the property, publish notice in the prescribed manner inviting claims thereto. If a claim is received, whether in answer to the notice or otherwise, he shall adjudicate upon and decide such claim. If the Registrar is satisfied that any claim is valid, he shall deliver the possession of the property to

the person claiming it on his giving a receipt thereof; and such delivery of the property to the person claiming it shall discharge the Registrar of his liability in respect of such property against any other person. If the claim is refused, the property shall stand forfeited to the State Government.

(5) Where the possession of the property pledged by a debtor can not for any reason (including identity thereof) be delivered to him, then the Money-Lender to whom it was pledged shall be required to pay to the debtor or if he is dead, to his legal heir, the value of such property if such debtor or, as the case may be, the heir claims the property. If the Money-Lender fails to pay the value, it may be recoverable from him as an arrears of land revenue and on recovery of the value, it shall be delivered to the debtor by whom such property was pledged or, as the case may be, to the legal heir and if the debtor or his legal heir can not be traced, the provisions of sub-section (4) apply.

(6) If there is any difference of opinion between the Money-Lender and the debtor, or as the case may be, his legal heir, on the question of value of the property or its identity, the question shall be referred to the Registrar General for decision and his decision shall be final.

(7) The value of the property may be determined with the assistance of the services of an expert appointed by the Registrar General in that behalf. The expert may be paid such honoraria as the Registrar General may, by an order in writing from time to time in relation to any area or areas, determine.

CHAPTER V ACCOUNTS AND STATEMENTS

Duty of Money-Lender to keep accounts and furnish statements.

21. (1) Every Money-Lender shall keep and maintain proper accounts and a cash book, ledger, register of securities, register of debtors and such other books of accounts in such form and in such manner as may be prescribed. The cash book, the ledger and the register of securities shall contain an up-to-date and true accounts of all transactions, particulars of a pawn, pledge of security and where it is kept.

(2) Every Money-Lender shall,-

(a) deliver or cause to be delivered to the debtor on the same day on which a loan is advanced -

(i) a statement in the prescribed form containing an up-to-date and true account of the transaction with the debtor, the amount (both in words and figures) and the date of the loan, the date of its maturity, the nature of security, if any, for the loan, the rate of interest charged and the names and full addresses of the debtor and the Money-Lender and such other particulars as may be prescribed; and if the loan advanced is in kind, the statement shall show, in place of the amount of the loan and the rate of interest, the correct value of the thing or commodity on the date on which it is advanced and the quantity of the

thing or commodity in excess of the loan recoverable in lieu of interest;

- (ii) a pass book in the prescribed form containing an up to date and true account of all transactions relating to the loan;
 - (b) submit to the Registrar such returns of the loans advanced by him, in such form and at such time, as may be prescribed;
 - (c) keep and maintain with himself a copy of the statement referred to in sub-clause (i) of clause (a);
 - (d) upon repayment of a loan in full, mark indelible entry in every paper signed by the debtor with words indicating payment or cancellation, and discharge every mortgage, restore every pledge, return every note and cancel or reassign every assignment given by the debtor as a security for the loan.
- (3) All the particulars required to be entered in the statement and the pass book referred to in clause (a) of sub-section (2) shall be entered therein in clear, distinct and legible terms in local language, or, if so required by debtor, then, in Hindi or English.
- (4) No Money-Lender shall receive any payment from a debtor on account of any loan without giving him a plain and complete receipt for such payment and without obtaining the signature or thumb impression of the debtor or his agent on the copy of such receipt to be kept with the Money-Lender where the payment is made in person.
- (5) No Money-Lender shall accept from a debtor any article as a pawn, pledge or security for a loan without giving him a plain receipt for such article, signed by the Money-Lender and showing therein the description and the estimated value of the article, the amount of loan advanced against it and such other particulars as may be prescribed.
- (6) A Money-Lender shall keep and maintain articles received as a pawn, pledge or security in safe custody and produce the same to the authority referred to in sub-section (1) of section 19 on demand.
- (7) Where any dispute arises as to the correctness of the market value of the commodity advanced as a loan, the matter shall be referred to the Registrar having jurisdiction in the area in which such loan is, or is to be, advanced and the decision of the Registrar shall be final.
- (8) A Money-Lender who has not maintained the record of any transaction relating to a loan advanced by him in the books of accounts as required under this Act shall be deemed to have advanced such loan in contravention of the provisions of this Act.
- (9) A Money-Lender shall keep and maintain relevant books of accounts as referred to in this section for five years except in the cases where the Registrar or Court requires or has required such books of

accounts or statements or pass books for any longer period, as the case may be.

Delivery of
statement of
yearly accounts
and documents to
debtors by
Money- Lender.

22. (1) Every Money-Lender shall deliver or cause to be delivered every year to each of his debtors within thirty days after the expiry of the year, a legible statement in the prescribed form of such debtor's accounts and of any amount that may be outstanding against such debtor. The statement shall contain the following particulars, namely:-

- (i) the principal amount, the interest and the expenses due to the Money-Lender at the beginning of the year;
- (ii) the total amount of loans advanced during the year;
- (iii) the total amount of repayment received during the year;
- (iv) the principal amount and interest due at the end of the year; and
- (v) particulars of location of article as a pawn, pledge or security where it is kept.

(2) The statement to be delivered under sub-section (1) shall be signed by the Money-Lender or his agent, and shall be in local language, or, if so required by debtor, then, in Hindi or English.

(3) In respect of any particular loan, whether advanced before or after the appointed day, the Money-Lender shall, on a demand in writing being made by the debtor at any time during the period when the loan or any part thereof is outstanding, supply to the debtor, or, if the debtor so requires, to any person specified in that behalf in the demand, -

- (a) a statement written in the language referred to in sub-section (2), signed by the Money-Lender or his agent, and containing the relevant particulars specified in sub-section (1);
- (b) a copy of any document relating to a loan made by him or of any security thereof.

Explanation.- For the purposes of this section "year" in relation to any Money-Lender, means the financial year.

Audit of
accounts of
Money-Lender.

23. (1) The accounts of every Money-Lender shall be audited at least once in every year by a person who is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949, and the audit report shall be submitted to the Registrar within such period as may be prescribed.

(2) If the audit report under sub-section (1) discloses any irregularity or any contravention or non-compliance of the provisions of this Act or the rules made thereunder, or of any of the conditions of the registration, the Registrar to whom such audit report is submitted, may without

prejudice to any other action that may be taken under any other provision of this Act, by order in writing direct the Money-Lender to take such action as may be specified in the order within the time mentioned therein to remedy the irregularity, or to take such steps necessary to comply with the provisions of this Act or the rules made thereunder or of the conditions of the registration.

24. A debtor to whom any statement or pass book has been furnished under section 21 or 22 shall not be bound to acknowledge the correctness of the particulars mentioned therein and his failure to do so shall not by itself, be deemed to be an admission of the correctness of any of such particulars.

Debtor not bound to admit correctness of particulars in statements or pass book.

CHAPTER VI

CERTAIN OTHER DUTIES OF MONEY-LENDERS

9 of 1872. 25. Subject to the provisions of sections 176 to 179 of Chapter IX of the Contract Act, 1872 or anything contained in any law for the time being in force, no Money-Lender shall dispose off any article taken from a debtor as a pawn, pledge or security for the loan advanced to him, before a period of two years from the date stipulated for final repayment of the loan.

Money-Lender not to dispose off pawned articles before certain period.

26. (1) In every suit to which this Act applies filed by a Money-Lender after the appointed day or in every such suit pending before any court on the appointed day, the court shall consider and decide the point whether such Money-Lender held a valid registration or not at the time when the loan to which the suit relates was advanced and if the Court finds that such Money-Lender did not hold valid registration at that time, it shall dismiss the suit forthwith.

Stay of suits by Money-Lender not holding valid registration.

III of 1909.

V of 1920.

I of 1956.

(2) Nothing contained in sub-section (1) shall affect the powers of a Court of Wards, or an official assignee, a receiver, or an administrator or a Court under the provisions of the Presidency Towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920 or any other law in force corresponding to that Act, or of a liquidator under the Companies Act, 1956, to realise the property of a Money-Lender.

CHAPTER VII

SUITS AND POWERS OF COURT

27. (1) In any suit to which this Act applies-
(a) a Court shall, before deciding the claim on merits, frame and decide the issue whether the Money-Lender has complied with the provisions of sections 21 and 22;
(b) if the Court finds that the provisions of section 21 or section 22 have not been complied with by the Money-Lender, it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow cost to the Money-Lender.

Procedure of Court in suits regarding loans.

Explanation.- A Money-Lender who has given the receipt or furnished a statement of accounts or a pass book in the prescribed form and manner, shall be deemed to have complied

with the provisions of section 21 or section 22, as the case may be, in spite of any errors and omissions, if the Court finds that such errors and omissions are not material or not made fraudulently.

(2) A Court trying a suit to which this Act applies shall, in a case in which it finds that the provisions of section 21 or section 22 have not been complied with by the Money-Lender, cause a copy of its judgment or order containing such finding duly authenticated by it and bearing the seal of the Court to be sent to the Registrar by whom the registration was issued to such Money-Lender and on receipt of such copy of the judgments or order, the Registrar may, without holding any further inquiry or giving an opportunity of being heard to the Money-Lender, cancel his registration, or suspend it for such period as the Registrar thinks fit.

Power of Court to limit interest recoverable in certain cases.

28. Notwithstanding anything contained in any agreement or any law for the time being in force, no court shall, in respect of any loan whether advanced before or after the appointed day, decree, on account of interest, a sum greater than the principal of the loan due on the date of the decree.

Power of Court to direct payment of decretal amount by installments.

29. The court may, at any time on the application of the judgment-debtor, after notice to the decree-holder, direct that the amount of any decree passed against him, whether before or after the appointed day, in respect of a loan, shall be paid in such number of installments and subject to such conditions, and payable on such dates, as, having regard to the circumstances of the judgment-debtor and the amount of the decree, it considers fit.

Reopening of transactions.

30. (1) Notwithstanding anything contained in any law for the time being in force, the court shall, in any suit to which this Act applies, whether heard ex-prate or otherwise, -

- (a) reopen any transaction, or any account already taken between the parties;
- (b) take an account between the parties;
- (c) reduce the amount charged to the debtor in respect of any excessive interest;
- (d) if on taking accounts, it is found that the Money-Lender has received more than what is due to him, pass a decree in favour of the debtor in respect of such amount :

Provided that in the exercise of these powers, the court shall not -

- (i) reopen any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entrusted into by the parties or any

person through whom they claim at a date more than six years from the date of the suit,

(ii) do anything which affects any decree of a court.

Explanation.- For the purpose of this section, "excessive interest" means interest at a rate which contravenes any of the provisions of section 33.

(2) (i) Notwithstanding anything to the contrary contained in any law, custom or contract, where in any such suit, it is alleged by the debtor -

(a) that the loan was advanced to him by the Money-Lender either before or after the appointed day, not in fact on the security of any property held by him but that the loan was actually advanced to him on his transferring by way of sale of such property to the Money-Lender or to a relative of the Money-Lender, or

(b) that the transaction was in fact in the nature of a mortgage,

the court shall declare the transaction to be a sale or, as the case may be, a mortgage, if the court is satisfied that the circumstances connected with the transaction showed the transfer to be in the nature of a sale or a mortgage and thereupon the court shall proceed accordingly.

(ii) In any such suit, if such relative has not been impeded as a party, the court shall declare such relative to be a party to such suit.

Explanation.- For the purpose of this sub-section, the expression "relative" shall mean any ascendant to the second degree and his descendant to the third degree and spouse of any such ascendant or descendant.

31. (1) Any debtor may make an application in prescribed form at any time to the Court, whether the loan has or has not become payable, for taking accounts and for declaring the amount due to the Money-Lender.

**Inquiry for
taking accounts
and declaring
the amount due.**

(2) On receipt of such application, the Court shall cause a notice of the application to be given to the Money-Lender.

(3) On the date fixed for the hearing of the application or on such date to which the hearing may be adjourned from time to time, the Court shall make an inquiry and shall, after taking an account of the transactions between the parties, pass an order declaring the amount, if any, still payable by the debtor to the Money-Lender in respect of the principal and interest, if any. In taking accounts under this section, the

Court shall, so far as may be, have regard to the provisions of sections 21 to 30 and sections 33 to 37.

Deposit in
Court of
money due to
Money-
Lender.

32. (1) At any time, the debtor may tender to a Money-Lender any sum of money due from him in respect of a loan by way of principal or interest or both.

(2) If a Money-Lender refuses to accept any sum so tendered, the debtor may deposit the said sum in the Court which has jurisdiction to try the suit for the recovery of such sum, to the account of the Money-Lender.

(3) The Court shall thereupon cause written notice of the deposit to be served on the Money-Lender, and the Money-Lender may, on presenting a petition stating the sum then due in respect of the loan, and his willingness to accept the said sum, receive and appropriate it first towards the interest and the residue, if any, towards the principal.

(4) When the Money-Lender does not accept the sum, the Court shall appropriate the said sum first towards the interest and the residue, if any, towards the principal.

CHAPTER VIII RATES OF INTEREST, ASSIGNEES, ETC.

Limitation
on rate of
interest.

33. (1) The State Government may, from time to time by notification in the *Official Gazette*, fix the maximum rates of interest for any local area or class of business of money-lending in respect of secured and unsecured loans.

(2) No agreement between a Money-Lender and a debtor for payment of interest at rates exceeding the maximum rates fixed by the State Government under sub-section (1) shall be valid and no Court shall in any suit to which this Act applies award interest exceeding the said rates.

(3) No Money-Lender or a person advancing a loan shall make an oral or written demand or charge or receive from a debtor interest at a rate exceeding the maximum rate fixed by the State Government under sub-section (1).

(4) Any loan in respect of which the Money-Lender or any person has realized from the debtor an interest at rates exceeding the maximum rates fixed by the State Government under sub-section (1), shall stand discharged and the amount of excessive interest, if any, so realized shall be refunded by the Money-Lender or any person, as the case may be, to the debtor. If the Money-Lender or any person fails to pay such amount of excessive interest to the debtor, it shall be recoverable from him as an arrears of land revenue, and on recovery thereof, it shall be paid to the debtor.

Prohibition of
charge for
expenses on
loans by
Money-Lender.

34. (1) No Money-Lender shall receive from a debtor or intending debtor any sum, by whatsoever name called, as costs, charges or expenses on the loans other than reasonable costs of investigating title to the property, cost of stamp, registration of documents and other usual out-of-pocket expenses in cases where an agreement between parties

4 of 1882.

includes a stipulation of that property is to be given as security or by way of mortgage and where both parties have agreed to such costs and expenses and to reimbursement thereof, or where such costs, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force.

(2) Any sum received by a Money-Lender in contravention of sub-section (1) from a debtor or intending debtor on account of costs, charges or expenses referred to in that sub-section, shall be recoverable from the Money-Lender as debt from him to the debtor or, as the case may be, intending debtor, or shall be liable to be set off against the loan actually lent to the debtor or intending debtor.

35. (1) Where a loan advanced, whether before or after the appointed day, or any interest of such loan or the benefit of any agreement made or security taken in respect of such loan or interest is assigned to any assignee, the assignor, whether he is the Money-Lender by whom the money was lent or any person to whom the debt has been previously assigned shall, before the assignment is made, -

Notice and information to be given on assignment of loan.

- (a) give the assignee a notice in writing that the loan, interest, agreement or security is affected by the operation of this Act;
- (b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act; and
- (c) give to the debtor a notice in writing of the assignment, supplying the name and address of the assignee and send or cause to be sent a copy thereof to the Registrar.

(2) Any person acting in contravention of the provisions of sub-section (1) shall be liable to indemnify any other person who is prejudiced by such contravention.

36. (1) Save as hereinafter provided, where any debt due to a Money-Lender in respect of money lent by him, whether before or after the appointed day or of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, has been assigned, the assignee shall be deemed to be the Money-Lender and the provisions of this Act shall apply to such assignee as if he were a Money-Lender.

Application of Act as respects assignees.

(2) Where for any reason, any such assignment is invalid and the debtor has made any payment of money or transfer of property on account of any loan which has been so assigned, the assignee shall in respect of such payment or transfer, be deemed to be the agent of the Money-Lender for all the purposes of this Act.

37. Notwithstanding anything contained in any agreement between the parties or any law for the time being in force, when a statement is delivered and pass book is supplied to a debtor under section 21 or accounts are taken under section 31 or a tender is made by a debtor to a

Manner of calculating interest.

Money-Lender in respect of a loan under section 32 before the sixteenth day of a month, the interest due shall be calculated as payable for fifteen days of the said month, and if the statement is delivered and pass book is supplied or accounts are taken or tender is made on any subsequent day, then interest shall be calculated for the entire month, irrespective of the fact that such statement is delivered and pass book is supplied or such accounts are taken or such tender is made on any such day.

Explanation.- For the purpose of this section, 'month', in relation to any loan, means a month of the year for which the accounts of the Money-Lender relating to such loan are ordinarily maintained in the books of account of the Money-Lender.

CHAPTER IX OFFENCES AND PENALTIES

Entry of wrong
sum in
documents, etc.
to be offence.

38. No Money-Lender shall accept any promissory note, acknowledgment, bond or other writing from the debtor which does not state the actual amount of the loan, or which states such amount wrongly or which contains erasures or over-writings not duly authenticated by the debtor or accept from the debtor any documents signed by such debtor in which blanks are left, or execute any instrument affecting a debtor in which blanks are left for being filled in after execution.

Prohibition
against
recovery of loan
or interest
except in cash.

39. Notwithstanding anything contained in this Act or in any other law for the time being in force, no Money-Lender shall recover the principal of the loan advanced by him or the interest thereon either in part or in whole except in cash.

Penalty for
molestation.

40. Whoever molests or abets the molestation of a debtor for the recovery of a loan due by him to a Money-Lender shall, on conviction, be punished with imprisonment for a term which may extend to two years and with fine which may extend to twenty-five thousand rupees :

Provided that in absence of the special and adequate reasons to the contrary to be mentioned in the judgments of the Court -

- (i) for the first offence, such imprisonment shall not be less than six months and such fine shall not be less than ten thousand rupees;
- (ii) for the second and subsequent offences, such imprisonment shall not be less than one year and such fine shall not be less than twenty-five thousand rupees.

Explanation.- For the purposes of this section, a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing-

- (a) obstructs or uses violence to or intimidates such other person, or
- (b) persistently follows such other person from place to place or interferes with any property owned or

used by him or deprives him of, or hinders him in the use thereof, or

- (c) loiters near a house or other place where such other person resides or works, or carries on business, or happens to be, or does any act calculated to annoy or intimidate such other person,

shall be deemed to molest such other person :

Provided that a person who goes to such house or place in order merely to obtain or communicate information shall not be deemed to molest.

41. If any Money-Lender or a person takes from a debtor at the time of advancing a loan or deduct out of the principal of such loan any *salami, batta, dharmada* or other extraction of similar nature by whatever name called, he shall be punishable with fine which may extend to twenty thousand rupees.

Penalty for
salami, batta,
dharmada, etc.

42. Whoever-

Penalty for
contravention
of section
5,19,33 or 38.

- (a) carries on the business of money-lending in any area without registration in contravention of section 5; or
- (b) fails to produce any record or document in compliance with any requirement made under sub-section (1) of section 19 or knowingly produces any false record or document; or
- (c) obstructs any officer making an entry, inquiry, search, seizure or entrance under sub-section (2) of section 19; or
- (d) demands, charges or receives from a debtor the interest at higher rate in contravention of sub-section (3) of section 33; or
- (e) accepts any promissory note, acknowledgement bond or other writing or document or any instrument in contravention of section 38; or
- (f) tempers with debtors' record or transaction or makes a wrongful or false entry therein or tempers or mutilates or destroys pawn or property -

shall on conviction, be punished with imprisonment for a term which may extend to two years and with fine which may extend to twenty-five thousand rupees :

Provided that in absence of the special and adequate reason to the contrary to be mentioned in the judgments of the Court -

- (i) for the first offence, such imprisonment shall not be less than three months and such fine shall not be less than five thousand rupees,
- (ii) for the second and subsequent offences, such imprisonment shall not be less than six months and such fine shall not be less than ten thousand rupees.

Penalty for contravention of section 21 or section 22.

43. Whoever contravenes the provisions of section 21 or section 22 shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to ten thousand rupees :

Provided that in absence of the special and adequate reason to the contrary to be mentioned in the judgments of the Court -

- (i) for the first offence, such imprisonment shall not be less than one month and such fine shall not be less than five thousand rupees;
- (ii) for the second and subsequent offences, such imprisonment shall not be less than six months and such fine shall not be less than ten thousand rupees.

General provision for penalty.

44. Whoever fails to comply with, or acts in contravention of, any of the provisions of this Act shall, on conviction, if no specific penalty is provided for such offence in this Act, be punished with imprisonment for a term which may extend to one year and with fine which may extend to ten thousand rupees :

Provided that in absence of the special and an adequate reason to the contrary to be mentioned in the judgments of the court -

- (i) for the first offence, such imprisonment shall not be less than one month and such fine shall not be less than two thousand rupees;
- (ii) for the second and subsequent offences, such imprisonment shall not be less than two months and such fine shall not be less than five thousand rupees.

Power of Court to suspend or cancel registration in certain cases.

45. (1) A Court passing an order of conviction against a Money-Lender for an offence under this Act, if it is satisfied that such Money-Lender has committed such contravention of the provisions of this Act or rules made thereunder as would make him unfit to carry on the business of money-lending, may, by order, direct, in addition to any penalty which it may impose on him for such offence, that such Money-Lender shall be disqualified from holding any registration in the State for carrying on such business for such period, not being less than six months, as the Court may think fit.

(2) Where a Court convicts a Money-Lender of an offence under this Act, or makes an order under sub-section (1), it shall cause the particulars of the conviction and the order passed by it to be endorsed on all the authorized registrations held by the Money-Lender convicted or by any other person affected by the order and shall cause a copy of its judgment and order duly authenticated by it to be sent to the Registrars by whom the registrations were granted, for the purpose of entering such particulars in the registers :

Provided that where any Money-Lender is disqualified from holding any registration under this section, he may appeal against such order to the Court to which an appeal ordinarily lies from the decision of the Court passing the order of conviction; and the Court which passed the order or the Court of appeal may, if it thinks fit, pending the appeal, stay the operation of the order under this section.

(3) Any registration required by a Court for endorsement in accordance with sub-section (2) shall be produced by the person by whom it is held in such manner and within such time as may be directed by the Court and any person who, without reasonable cause, makes default in producing the registration so required shall be liable, on conviction, to a fine not exceeding five hundred rupees for each day for the period during which the default continues.

(4) Powers conferred on a Court under this section may be exercised by any Court in appeal or in revision.

46. (1) If the person committing an offence under this Act is a Hindu Undivided Family, the person responsible for the management of business of such family shall be deemed to be guilty of such contravention.

Offences by corporations.

(2) Where an offence under this Act or rules made thereunder has been committed by a company, every person, who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager or other officer, such director, manager or officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section -

- (a) "company" means a body corporate and includes any firm or other association of individuals, and
- (b) "director", in relation to a firm, means a partner in the firm.

2 of 1974.

Certain offences to be cognizable.

47. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, offences punishable-

- (a) under section 40,
- (b) under section 42 for contravening the provision of section 5 - shall be cognizable.

Cognizance of certain offences with sanction of Registrar.

48. No court shall take cognizance of any offence other than offences referred to in section 47 except with the previous sanction of the Registrar.

Compounding of certain offences.

49. (1) The Registrar General or any other officer authorized by him in this behalf, may accept, from the person who has committed or is reasonably suspected of having committed any offence under this Act, by way of compounding of such offence -

- (a) a sum of money equal to the maximum amount prescribed as fine under this Act, if the offence is committed for the first time; and
- (b) in other cases, twice the amount of such fine prescribed under the respective sections :

Provided that an offence with respect to which a proceeding is pending before the Court shall not be compoundable :

Provided further that the offences punishable under sections 42 and 43 of this Act shall not be compoundable.

Prohibition of arrest and imprisonment of agricultural debtors in execution of decrees of money.

50. Notwithstanding anything contained in any law for the time being in force, no debtor who cultivates land personally and whose debts does not exceed rupees fifty thousand shall be arrested or imprisoned in execution of a decree for money passed in favour of a Money-Lender, whether before or after the appointed day.

Explanation.- For the purpose of this section, the expression "to cultivate personally" will have the meaning assigned to that expression in the relevant tenancy law.

CHAPTER X MISCELLANEOUS

Officers and employees to be public servants.

51. Every officer of the Government when acting or purporting to act in pursuance of the provisions of this Act or the rules made thereunder shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

52. No suit, prosecution or other legal proceedings shall lie against the Registrar General, Registrar, Assistant Registrar or any officer or employee subordinate to him appointed under section 3 or any person acting on his authority, in respect of anything which is in good faith done or purported to be done by him in pursuance of the provisions of this Act, or rules made thereunder or any instructions, for carrying out the purposes of this Act.

Indemnity.

53. Nothing in this Act shall affect any of the provisions of any law which may be in force in any part of the State relating to relief of agricultural indebtedness and no Court shall entertain, or proceed under this Act with any suit or proceeding relating to any loan in respect of which debt adjustment proceedings can be taken under the said Act, or as the case may be, the said law.

Provisions of any other Act in force saved.

54. Whenever a copy of any document from the record of any application, inquiry or appeal under this Act is required by any party to such application, inquiry or appeal, it may be granted on payment of such fees as may be prescribed by the State Government.

Grant of copies of documents on payment of fees.

55. (1) The State Government may, by notification in the *Official Gazette*, make rules generally for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters :-

- (a) the form of the register of Money-Lenders to be maintained by the Registrar under section 4;
- (b) the form of application for registration under sub-section (1) of section 6; the other particulars of such application, under sub-section (2);
- (c) the form of certificate of registration, the conditions of registration and fees for registration and the manner of payment thereof under sub-section (1) of section 7;
- (d) the form of application for renewal of registration, the period for making such application; and the fee for renewal of registration; to fix amount of penalty and the manner of payment thereof under sub-section (1) of section 9;
- (e) the fee for the issuance of a duplicate certificate of registration under section 11;
- (f) the manner of publishing a notice under sub-section (4) of section 20 for inviting claims to property pledged with a Money-Lender;
- (g) the form of cash book, register of securities, register of debtors, ledger and such other books of accounts; and the

manner in which they shall be maintained under sub-section (1) of section 21; the form of statement of accounts, pass books and returns to be submitted to the Registrar and the period for submission under sub-section (2) of section 21; and the other particulars to be prescribed under sub-section (5) of the section 21;

- (h) the form of the statement under sub-section (1) of section 22;
- (i) the period for submission of audit report to the Registrar under sub-section (1) of section 23;
- (j) the form of application to be made to the Court under sub-section (1) of section 31;
- (k) the payment of fees for copies of documents under section 54;
- (l) such other matters which are to be or may be, prescribed under this Act.

(3) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made, and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Power of State Government to exempt.

56. The State Government may, by general or special order to be published in the *Official Gazette*, exempt any Money-Lender or class of Money-Lenders from all or any of the provisions of this Act subject to such conditions and for such period as may be specified in such order.

Provisions of Guj. 35 of 1976 not to affect.

57. Nothing in this Act shall affect the operation of the Gujarat Rural Debtors Relief Act, 1976.

Guj. 35 of 1976.

Repeal and savings.

58. (1) The Bombay Money-Lenders Act, 1946 is hereby repealed.

XXXI of 1947.

(2) Notwithstanding such repeal of the Act refer to in sub-section (1) (hereinafter in this section refer to as the "said Act") -

- (a) any license issued under the said Act and validly in force immediately before the appointed day shall be deemed to be the registration issued under this Act, and

(b) any appointment, notification, order, rule, form, notice or register made, issued or maintained under the said Act shall, so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been made, issued or maintained under the provisions of this Act, unless and until it is superseded by any appointment, notification, order, rule, form, notice or register made, issued or maintained under the provisions of this Act.

(3) Any other thing done or action taken under the said Act, so far as it is not inconsistent with the provisions of this Act, shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly, unless and until superseded by any thing done or any action taken under this Act.

STATEMENT OF OBJECTS AND REASONS

At present, the Bombay Money-Lenders Act, 1946 is in force in the State of Gujarat in order to control the business of money-lending and for the regulation of transaction of money-lending in the State. However, it has been found necessary to expand the extent and ambit of the said Act so as to encompass various aspects of money-lending. At the same time, it has been found necessary to make certain changes in the procedural part in force at present. It also seems necessary for making provisions for arming the concerned officers with powers of search and seizure for detecting and curbing illicit money-lending and for preventing exploitation by money-lenders of people of weaker sections of the society as also for deterrent punishments for violations of the provisions of the Act. It is also considered necessary to impose a ban on charging compound interest. To achieve the aforesaid objects, it is considered necessary to have a new Act in place of the existing Bombay Money-Lenders Act, 1946.

The following notes on clauses explain, in brief, some of the important provisions of the Bill.

Clause 1.- This clause provides for the short title, extent and commencement of the Act.

Clause 2.- This clause provides for certain terms used in the Bill.

Clause 3.- This clause provides for certain authorities and other officers to be appointed by the State Government for implementation of the Act.

Clause 4.- This clause provides for the register of money-lenders maintained by the Registrar.

Clause 5.- This clause provides that no money-lender shall commence or carry on the business of money-lending except in the area for which he has been granted a registration subject to the terms and conditions of such registration.

Clauses 6 to 8.- These clauses provide for the procedure to be followed for grant of registration of money-lending and also for grant and validity of registration thereof. It also provides that the Registrar General shall notify the rates for application fees.

Clause 9.- This clause provides for the procedure to be followed for renewal of the registration of money-lending.

Clause 10.- This clause provides for the grounds under which the grant or renewal of registration shall be refused.

Clause 11.- This clause provides for the grant of a duplicate certificate of registration granted to the money-lender.

Clause 12.- This clause provides for the periodical inspection by such officers appointed by the Registrar.

Clause 13.- This clause provides for the suspension of the registration of money-lender where any complaints filed against him in any court or any inquiry is pending in any court for the contravention of the provisions of sub-clause (2) of clause 14 or sub-clause (1) of clause 15.

Clauses 14 to 17.- These clauses provide for the procedure to be followed for the cancellation of the registration issued to a money-lender on the ground that such money-lender has been guilty of any act or conduct; circumstances under which the registration shall be cancelled, disqualified the money-lender for carrying on the business of money-lending.

Clause 18.- This clause provides that the Registrar General, Registrar and other officers shall have the powers of the civil court in certain matters as specified therein.

Clause 19.- This clause provides for the powers of the Registrar General, Registrar or any other authorised officer to require any money-lender to produce any record or document in his possession; it also provides to enter without warrant any premises and also for search and seizure of the same.

Clause 20.- This clause provides for the disposal of property pledged or mortgaged with a money-lender carrying on business of money-lending without valid registration.

Clauses 21 to 23.- These clauses provide for the duty of money-lender to keep accounts, to deliver statement of yearly accounts and documents to debtors and also to provide for audit of accounts thereof.

Clause 26.- This clause provides for the procedure to be followed by the court in cases where the money-lender does not hold the valid registration of money-lending; It also provides that the powers of a Court of Wards, or an official assignee, a receiver, or an administrator or a Court or a liquidator under the provisions of the certain Acts shall not be affected, to realize the property of a money-lender.

Clause 27.- This clause provides for the procedure to be followed by the court in cases where the money-lender does not comply with the provisions of clauses 21 and 22.

Clauses 28 and 29.- These clauses provide for the power of Court to limit interest recoverable on loan in certain cases and also to direct payment of decretal amount by installments.

Clause 30.- This clause provides for the reopening of transactions or any accounts already taken between the parties. It also provides for reducing the amount charged to the debtor in respect of any excessive interest.

Clause 31.- This clause provides for the inquiry held by the Court for taking accounts and declaring the amount due to the money-lender.

Clause 32.- This clause provides for deposit of money in the Court which is due to the money-lender.

Clause 33.- This clause provides for the maximum rate of interest to be fixed by the State Government for any local area or class of business of money-lending in respect of secured and unsecured loans.

Clause 34.- This clause provides for the prohibition of charge as costs, charges or expenses on loans by money-lender other than reasonable costs of investigating title to the property, cost of stamp, registration of documents and other usual out-of-pocket expenses in cases where an agreement between parties includes a stipulation that property is to be given as security or by way of mortgage.

Clause 35.- This clause provides for the notice and information to be given to the assignee and the debtor on assignment of a loan, interest or the benefit of agreement by the money-lender or any person to whom the debt has been previously assigned.

Clause 36.- (i) Sub-clause (1) of this clause provides that the assignee shall be deemed to be the money-lender and the provisions of this Act shall apply to such assignee in cases where any debt or interest due to a money-lender or the benefit of any agreement made or security taken in respect of any such debt or interest, is assigned to the assignee;

(ii) sub-clause (2) of this clause provides that the assignee shall be deemed to be the agent of the money-lender in respect of such payment or transfer of property on account of any loan made by the debtor.

Clause 38.- This clause provides for the entry of wrong sum in the documents like promissory note, acknowledgment, bond or other writing from the debtor.

Clause 39.- This clause provides that the money-lender shall not recover the principal of the loan advanced by him or the interest thereon either in part or in whole except in cash.

Clause 40.- This clause provides for the penalty for molestation of a debtor for the recovery of a loan due by him to a money-lender.

Clause 41.- This clause provides for the penalty for *salami, batta, dharmada* or other extraction of similar nature taken from a debtor at the time of advancing a loan or deducted out of the principal of such loan by a money-lender.

Clauses 42 to 44.- These clauses provide for the penalty for contravention of certain provisions of the Act and also for the general provision for the penalty.

Clause 45.- This clause provides for the power of the Court to suspend or cancel the registration of money-lender in certain cases.

Clause 46.- This clause provides for the offences by the corporations.

Clause 47.- This clause provides for cognizance of offences under sections 40 and 42 for contravening the provision of section 5 of the Act.

Clause 48.- This clause provides for cognizance of certain offences with the previous sanction of the Registrar.

Clause 49.- This clause provides for compounding of certain offences.

Clause 50.- This clause provides for prohibition of arrest and imprisonment of agricultural debtors in execution of a decree for money passed in favour of a money-lender.

Clause 51.- This clause provides that every officer of the Government acting or purporting to act in pursuance of the provisions of this Act or the rules made there under shall be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 52.- This clause provides for usual indemnity for action taken in good faith.

Clause 53.- This clause provides that the provisions of any law which may be in force in any part of the State relating to relief of agricultural indebtedness shall not be affected by the provisions of this Act.

Clause 54.- This clause provides for the grant of copies of any document from the record of any application, inquiry or appeal under this Act, on payment of fees.

Clause 55.- This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly in respect of matters specified therein.

Clause 56.- This clause empowers the State Government to exempt, by general or special order, any Money-Lender or class of Money-Lenders from the provisions of the Act subject to such conditions and for such period as may be specified in the order.

Clause 57.- This clause provides that the operation of the Gujarat Rural Debtors Relief Act, 1976 shall not be affected under the provisions of the Act.

Clause 58.- This clause provides for the repeal the Bombay Money-Lenders Act, 1946 and also provides for the savings thereof.

DILEEP SANGHANI,

FINANCIAL MEMORANDUM

The Gujarat Money-Lenders Bill, 2011 seeks to replace and repeal the Bombay Money-Lenders Act, 1946. The administrative set-up already exists for carrying into effect the provisions of the existing Act and the same set up shall continue for the implementation of the provisions of the present Bill, if enacted. As such, the Bill, if enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the State.

DILEEP SANGHANI,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects: -

Clause 1.— Sub-clause (3) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 3.- Sub-clause (2) of this clause empowers the State Government to specify, by notification in the *Official Gazette*,

the areas of jurisdiction within which the officers shall exercise the powers and perform duties conferred or imposed upon them.

Clause 4.- This clause empowers the State Government to prescribe by rules the form in which a register of money-lenders shall be maintained by every Registrar.

Clause 5.- Para (b) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, the form in which the non-banking finance companies shall intimate to the concerned registering authority of having registered with Reserve Bank of India.

Clause 6.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form of an application in which the person who intends to commence or to carry on the business of money-lending in any area, may make an application for the grant of registration;

(ii) Para (h) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, the other particulars to be contained in the application to be made under sub-clause (1);

(iii) Sub-clause (4) of this clause empowers the State Registrar General to notify the rates of application fees.

Clause 7.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form and the manner in which and the conditions subject to which the certificate of registration shall be granted and the registration fee to be paid by the applicant for registration.

Clause 9.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the fees to be paid for renewal and the form and the manner in which and the period within which the application for renewal of registration shall be made before the expiry of the period of validity of a registration;

(ii) proviso to sub-clause (1) of this clause empowers the State Government to prescribe by rules, the penalty to be paid for renewal of registration in any case in which the applicant could not make an application for renewal of a registration within the prescribed period for reasons beyond his control.

Clause 10.- Para (g) of sub-clause (1) of this clause empowers the State Government to prescribe by rules, the other grounds to which the grant or renewal of the registration shall not be refused.

Clause 11.- This clause empowers the State Government to prescribe by rules, the fees to be paid for issue of duplicate certificate of registration.

Clause 20. Sub-clause (4) of this clause empowers the State Government to prescribe by rules, the manner in which the notice shall be published, within ninety days from the date of taking possession of property, inviting claims in case debtor or his heir cannot be traced.

Clause 21.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which the money-lender shall keep and maintain accounts and a cash book ledger, register of securities, register of debtors and such other books of accounts;

(ii) item (i) of para (a) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, the form of a statement to be deliver to the debtor by a money-lender containing an up-to-date and true account of the transaction with the debtor; it also empowers the State Government to prescribe by rules, the other particulars to be contained in such statement;

(iii) item (ii) of para (a) of sub-clause (2) of this sub-clause empowers the State Government to prescribe by rules, the form of a pass-book to be deliver to the debtor containing an up to date and true account of all transactions relating to the loan advanced to the debtor;

(iv) para (b) of sub-clause (2) of this sub-clause empowers the State Government to prescribe by rules, the form in which and the time at which the money-lender shall submit to the Registrar the returns to the loans advanced by him;

(v) sub-clause (5) of this clause empowers the State Government to prescribe by rules, the other particulars to be shown in a plain receipt to be given by the money-lender to a debtor while accepting any article as a pawn, pledge or security for a loan to be advanced to a debtor.

Clause 22.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form of a legible statement to be delivered by the money-lender every year to each of his debtors within 30 days after the expiry of the year containing the particulars as specified therein.

Clause 23.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the period within which the audit report of the accounts of the money-lender audited by a Chartered Accountant shall be submitted to the Registrar.

Clause 31.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form of application to be

made by the debtor to the Court for taking accounts and for declaring the amount due to the money-lender.

Clause 33.- (i) Sub-clause (1) of this clause empowers the State Government to fix from time to time, by notification in the *Official Gazette*, the maximum rates of interest for any local area or class of business of money-lending in respect of secured and unsecured loans.

Clause 54.- This clause empowers the State Government to prescribe by rules, the fees to be paid for granting a copy of any document required by any party from the record.

Clause 55.- This clause empowers the State Government to make, by notification in the *Official Gazette*, rules generally for carrying out the purposes of this Act and particularly for all or any of the matters specified in sub-clause (2) of this clause.

Clause 56.- This clause empowers the State Government to exempt, by general or special order to be published in the *Official Gazette*, any Money-Lender or class of Money-Lenders for any of the provisions of the Act subject to such conditions and for such period as may be specified in the order.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 17th March, 2011.

DILEEP SANGHANI.

By order and in the name of the Governor of Gujarat,

Gandhinagar
Dated the 18th March, 2011.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the
Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under
the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY LAND REVENUE (GUJARAT AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 22 OF 2011.

A BILL

further to amend the Bombay Land Revenue Code, 1879.

It is hereby enacted in the Sixty-second Year of the Republic of
India as follows:-

1. This Act may be called the Bombay Land Revenue (Gujarat Short title.
Amendment) Act, 2011.

Amendment of
section 61 of
Bom. V of
1879.

2. In the Bombay Land Revenue Code, 1879 (hereinafter referred to as "the principal Act"), in section 61, in para (3), for the words "five rupees, or a sum equal to ten times the amount of assessment payable by him for one year, if such sum be in excess of five rupees," the words and brackets "one per cent. of the prevalent annual statement of rate (*Jantri*) as may be notified by the State Government from time to time," shall be substituted.

Bom. V of
1879.

Amendment of
section 63 of
Bom. V of 1879.

3. In the principal Act, in section 63, for para (2), the following shall be substituted, namely :-

"The price of the land so offered shall be such as may be determined by the State Government."

STATEMENT OF OBJECTS AND REASONS

The penalty for unauthorized occupation of land under section 61 of the Bombay Land Revenue Code, 1879, is based on the assessment of land revenue. Similarly in the existing provision of section 63, the fixation of the price of the alluvia land offered by the Collector to the occupant is also based on the assessment of land revenue. The assessment of land revenue has been fixed many years ago and the land revenue on agricultural land is suspended at present. It is, therefore, considered necessary to amend the provision of section 61 relating to imposing penalty on the basis of the prevalent *Jantri* and also to empower the State Government under section 63 to determine the price of alluvia land offered by the Collector.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

ANANDIBEN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative power in the following respects, namely:-

Clause 3.- Para (2) of section 63 proposed to be substituted by this clause empowers the State Government to determine the price of the alluvia land offered by the Collector.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 17th March, 2011.

ANANDIBEN PATEL.

By Order and in the name of the Governor of Gujarat,

Gandhinagar.
Dated the 18th March, 2011.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.

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Government Central Press, Gandhinagar.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the
Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under
the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

**THE GUJARAT TENANCY AND AGRICULTURAL LANDS LAWS
(SECOND AMENDMENT) BILL, 2011.**

GUJARAT BILL NO. 23 OF 2011.

A BILL

*further to amend the Bombay Tenancy and Agricultural Lands Act, 1948
and the Bombay Tenancy and Agricultural Lands (Vidarbha Region and
Kutch Area) Act, 1958.*

It is hereby enacted in the Sixty-second Year of the Republic of India as
follows:-

Short title.

1. This Act may be called the Gujarat Tenancy and Agricultural Lands
Laws (Second Amendment) Act, 2011.

Bom. LXVII
of 1948.

2. In the Bombay Tenancy and Agricultural Lands Act, 1948, in
section 70, in clause (o), after the word "referred", the words "by the State
Government" shall be inserted.

Amendment of
section 70 of
Bom. LXVII of
1948.

Bom. XCIX of
1958.

3. In the Bombay Tenancy and Agricultural Lands (Vidarbha Region
and Kutch Area) Act, 1958, in section 100, in clause (19), after the word
"referred", the words "by the State Government" shall be inserted.

Amendment of
section 100 of
Bom. XCIX of
1958.

STATEMENT OF OBJECTS AND REASONS

Section 70 of the Bombay Tenancy and Agricultural Lands Act, 1948, and section 100 of the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 provide the duties and functions to be performed by the Mamlatdar under the Act. Clause (o) of section 70 and clause (19) of section 100 respectively of the said Acts empower the Mamlatdar to decide such other matters as may be referred to him by or under the said Acts. It has come to the notice of the State Government that the Mamlatdars under the above said clauses entertain matters after a lapse of long period which in fact they can not entertain. It is, therefore, considered necessary to restrict the powers of the Mamlatdars vested in them under the said clauses by providing that they can decide only such matters which have been referred to them by the State Government.

This Bill seeks to amend the said Acts to achieve the aforesaid objects.

Gandhinagar,
Dated the 17th March, 2011.

ANANDIBEN PATEL.

By Order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 18th March, 2011

C. J. GOTH,
Secretary, to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT LOCAL AUTHORITIES LAWS (AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 24 OF 2011.

A BILL

*further to amend the Bombay Provincial Municipal Corporations Act, 1949,
the Gujarat Municipalities Act, 1963 and
the Gujarat Panchayats Act, 1993.*

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Local Authorities Laws Short title.
(Amendment) Act, 2011.

Ex. V. 24-1

24-1

Amendment of
section 2 of Bom.
LIX of 1949.

2. In the Bombay Provincial Municipal Corporations Act, 1949 Bom. LIX of 1949, (hereinafter referred to as "the Municipal Corporations Act"), in section 2, after clause (34A), the following clause shall be inserted, namely :-

"(34AA) "mobile tower" means a temporary or permanent structure, equipment or instrument erected or installed on land or upon any part of the building or premises for providing telecommunication services;"

Insertion of
new section
108A in Bom.
LIX of 1949.

3. In the Municipal Corporations Act, in Chapter IX, after section 108, the following section shall be inserted, namely :-

Audit and
technical
guidance and
supervision
over audit.

"108A. (1) The accounts of the municipal corporation shall be audited under the provisions of the Gujarat Local Fund Audit Act, 1963.

Guj. XLIX
of 1963.

(2) Notwithstanding anything contained in this Act, the State Government shall entrust the Comptroller and Auditor General of India the technical guidance and supervision over the audit of the municipal corporation.

(3) The State Government shall cause the audit report under the Gujarat Local Fund Audit Act, 1963 along with the report of the Comptroller and Auditor General of India on technical guidance and supervision as referred to in sub-sections (1) and (2), to be laid before the State Legislature."

Guj. XLIX
of 1963.

Amendment of
section 127 of
Bom. LIX of
1949.

4. In the Municipal Corporations Act, in section 127, in sub-section (1), after clause (b), the following clause shall be inserted, namely :-

"(c) a tax on mobile towers;"

5. In the Municipal Corporations Act, after section 145, the following sub-heading and section shall be inserted, namely :-

Insertion of new section 145A in Bom. LIX of 1949.

"Tax on Mobile Towers"

Tax on mobile towers.

145A. (1) A tax at the rates not exceeding those prescribed by order in writing by the State Government in this behalf from time to time shall be levied on mobile towers from the person engaged in providing telecommunication services through such mobile towers.

- (2) The Corporation shall from year to year, in accordance with section 99, determine the rates at which the tax shall be levied."

Guj. 34 of 1964.

6. In the Gujarat Municipalities Act, 1963 (hereinafter referred to as "the Municipalities Act"), in section 2, after clause (12A), the following clause shall be inserted, namely :-

Amendment of section 2 of Guj. 34 of 1964.

"(12B) "mobile tower" means a temporary or permanent structure, equipment or instrument erected or installed on land or upon any part of the building or premises for providing telecommunication services;"

7. In the Municipalities Act, in section 33, for sub-section (1), the following sub-section shall be substituted, namely:-

Amendment of section 33 of Guj. 34 of 1964.

- "(1) (a) The term of office of the President and Vice-President of a municipality shall be two and half years.
- (b) Subject to the other provisions of this section, the President or the Vice-President shall be eligible for re-election.
- (c) Subject to the other provisions of this section, the Vice-President of a municipality who has completed the term of two and half years on or before the commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2011, shall continue to hold the office of the Vice-President till the expiry of the term of that municipality."

Guj. _____ of 2011.

Amendment of
section 77 of
Guj. 34 of 1964.

8. In the Municipalities Act, in section 77, after sub-section (3), the following sub-sections shall be inserted, namely:-

Guj. 34
of 1964.

“(4) Notwithstanding anything contained in the preceding sub-sections, the State Government shall entrust the Comptroller and Auditor General of India the technical guidance and supervision over the audit of the municipality.

(5) The State Government shall cause the audit report under the Gujarat Local Fund Audit Act, 1963 referred to in sub-section (1) alongwith the report of the Comptroller and Auditor General of India on technical guidance and supervision as referred to in sub-section (4), to be laid before the State Legislature.”.

Guj. XLIX
of 1963.

Amendment of
section 99 of Guj.
34 of 1964.

9. In the Municipalities Act, in section 99, in sub-section (1), after clause (xiv), the following clause shall be inserted, namely:-

“(xiv-a) a tax on mobile towers to be levied from the person engaged in providing telecommunication services through such mobile towers;”.

Amendment of
section 2 of Guj.
18 of 1993.

10. In the Gujarat Panchayats Act, 1993 (hereinafter referred to as “the Panchayats Act”), in section 2, after clause (12), the following clause shall be inserted, namely:-

Guj. 18 of 1993.

“(12A) “mobile tower” means a temporary or permanent structure, equipment or instrument erected or installed on land or upon any part of the building or premises for providing telecommunication services;”.

Amendment
of section 121
of Guj. 18 of
1993.

11. In the Panchayats Act, in section 121, after sub-section (1), the following sub-sections shall be inserted, namely :-

“(1A) Notwithstanding anything contained in sub-section (1), the State Government shall entrust the Comptroller and Auditor General of India the technical guidance and supervision over the audit of the village panchayat.

Guj. XLIX
of 1963.

(1B) The State Government shall cause the audit report under the Gujarat Local Fund Audit Act, 1963 referred to in sub-section (1) alongwith the report of the Comptroller and Auditor General of India on technical guidance and supervision as referred to in sub-section (1A), to be laid before the State Legislature.”.

12. In the Panchayats Act, section 143 shall be numbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:-

Amendment
of section 143
of Guj. 18 of
1993.

“(2) Notwithstanding anything contained in sub-section (1), the State Government shall entrust the Comptroller and Auditor General of India the technical guidance and supervision over the audit of the taluka panchayat.

Guj. XLIX
of 1963.

(3) The State Government shall cause the audit report under the Gujarat Local Fund Audit Act, 1963 referred to in sub-section (1) alongwith the report of the Comptroller and Auditor General of India on technical guidance and supervision as referred to in sub-section (2), to be laid before the State Legislature.”.

13. In the Panchayats Act, in section 166, after sub-section (2), the following sub-sections shall be inserted, namely:-

Amendment
of section 166
of Guj. 18 of
1993.

“(3) Notwithstanding anything contained in sub-section (2), the State Government shall entrust the Comptroller and Auditor General of India the technical guidance and supervision over the audit of the district panchayat.

Guj. XLIX
of 1963.

(4) The State Government shall cause the audit report under the Gujarat Local Fund Audit Act, 1963 referred to in sub-section (2) alongwith the

report of the Comptroller and Auditor General of India on technical guidance and supervision as referred to in sub-section (3), to be laid before the State Legislature.”.

Amendment of
section 200 of
Guj. 18 of 1993.

14. In the Panchayats Act, in section 200,-

(1) in sub-section (1), after clause (i), the following clause shall be inserted, namely:-

“(i-a) a tax on mobile towers;”;

(2) after sub-section (4), and the proviso thereunder, the following sub-section shall be inserted, namely:-

“(4A) a tax on mobile towers referred to in clause (i-a) of sub-section (1) shall be levied from the person engaged in providing telecommunication services through such mobile towers.”.

STATEMENT OF OBJECTS AND REASONS

The present Bill contemplates to amend the Bombay Provincial Municipal Corporations Act, 1949, the Gujarat Municipalities Act, 1963 and the Gujarat Panchayats Act, 1993 in connection with the matters as stated herein below :

Sections 105 to 107 of the Bombay Provincial Municipal Corporations Act, 1949 provide for the audit of accounts of the municipal corporations by the Chief Auditor of Municipal Corporation concerned. Section 108 the said Act also provides for the special audit by the State Government. There is no provision in the said Act for laying the audit report before the State Legislature and to provide for the technical guidance and supervision over the audit of the municipal corporation by the Comptroller and Auditor General of India.

Section 77 of the Gujarat Municipalities Act, 1963 provides for the audit of accounts of the municipalities by the Local Fund Examiner under section 3 of the Gujarat Local Fund Audit Act, 1963. The audit reports are sent to the Director of Municipalities and concerned Collector. The Comptroller and Auditor General has been entrusted control and supervision over the proper maintenance of accounts and the audit of Municipalities of the State under the Government Resolution, Finance Department dated the 6th May, 2005. However, there is no provision in the Gujarat Municipalities Act, 1963 for laying the audit report before the State Legislature.

The provisions of sections 121, 143 and 166 of the Gujarat Panchayats Act, 1993 provide for audit of accounts of the Village, Taluka and District Panchayats by the Local Fund Examiner under section 3 of the Gujarat Local Fund Audit Act, 1963. The audit report is sent to the concerned Panchayat and a copy of which is sent to the concerned authorities as per the provisions of the Panchayats Act. The audit reports of Taluka and District Panchayats are laid before the State Legislature as per the Government Resolution, Panchayats, Rural Development and Rural Housing Department dated the 15th March, 1965. On the basis of the

Eleventh Finance Commission's recommendation, the Comptroller and Auditor General has been entrusted with the responsibilities of exercising control and supervision over the proper maintenance of accounts and the audit of all the tiers/ levels of Panchayats and Urban Local Bodies of the State under the Government Resolution, Finance Department dated the 6th May, 2005. However, there is no provision in the Panchayats Act, for laying the audit report before the State Legislature.

The 13th Finance Commission in its report has recommended to make statutory provisions in the respective Acts, i.e. (i) to entrust the task of Technical Guidance and Supervision (TG&S) to the Comptroller and Auditor General over the maintenance of accounts and their audit for all the tiers/levels of Panchayats and Urban Local Bodies, and (ii) by laying before the State Legislature, the annual technical inspection report of the Comptroller and Auditor General of India of all the tiers/levels of Panchayats and Urban Local Bodies in the State alongwith the audit reports of all the tiers/levels of Panchayats / Urban Local Bodies in the State carried out under the Gujarat Local Fund Audit Act, 1963.

It is, therefore, considered necessary to make necessary provisions in the respective Acts providing for technical guidance and supervision over the proper maintenance of accounts and their audit of the local authorities by the Comptroller and Auditor General of India and also laying before the State Legislature, the annual technical inspection report of the Comptroller and Auditor General of India alongwith the audit report of the Examiner of the Gujarat Local Fund. *Clauses 3, 8, 11, 12 and 13* provide for the same.

The Hon'ble High Court of Gujarat in Special Civil Application No.1898/2009 and others has, wherein the Resolution dated 11-12-2008 issued by the Government of Gujarat in the matter of determining annual fees etc. within the limits of Municipal Corporations/Municipalities and demand notices issued pursuant thereto providing for levy and recovery of annual permission fees and installation charges on mobile communication towers were under challenge, held that it was not permissible for the authorities to levy and collect taxes or fees in respect of mobile towers in absence of any provision to that effect in the statutes.

It is, therefore, considered necessary to make necessary provisions in the respective Acts providing for levy and collection of taxes or fees in respect of such mobile telecommunication towers by the respective local authorities. *Clauses* 2, 4, 5, 6, 9, 10 and 14 provide for the same.

Section 33 of the Gujarat Municipalities Act, 1963 provides for the term of offices of the President and Vice-President which is two and a half years in case of President, whereas the term of the Vice-President is co-extensive with the term of the Municipality. In order to bring the term of the office of the Vice-President at par with that of the office of the President, it is considered necessary to amend the provision of section 33 of the said Act. The provision is also made in respect of the existing Vice-Presidents who have completed the term of two and a half years on or before the commencement of this amending Act, so as to allow them to complete their term which is co-extensive with the term of the Municipality. *Clause 7* provides for the same.

This Bill seeks to amend the said three Acts to achieve the aforesaid objects.

Gandhinagar,
Dated the 17th March, 2011.

NITIN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar
Dated the 18th March, 2011.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT PUBLIC TRUSTS BILL, 2011.

GUJARAT BILL NO. 25 OF 2011.

A BILL

to provide for regulating and for making more effective provisions for the administration of public, religious and charitable trusts in the State of Gujarat and for the matters connected therewith and incidental thereto.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Gujarat Public Trusts Act, 2011.
- (2) It shall extend to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title,
extent and
commencement.

Definitions. 2. In this Act, unless the context otherwise requires, -

- (1) "Assistant Charity Commissioner" means the Assistant Charity Commissioner appointed under section 6;
- (2) "Charity Commissioner" means the Charity Commissioner appointed under section 3;
- (3) "Court" means in the City of Ahmedabad, the City Civil Court and elsewhere the District Court;
- (4) "Deputy Charity Commissioner" means the Deputy Charity Commissioner appointed under section 6;
- (5) "Director of Accounts" and "Assistant Director of Accounts" mean respectively the Director of Accounts and Assistant Director of Accounts appointed under section 7;
- (6) "Hindu" includes Jain, Buddhist and Sikh;
- (7) "Inspector" means an Inspector appointed under section 7;
- (8) "instrument of trust" means the instrument by which the trust is created by the author of the trust and includes any scheme framed by a competent authority or any Memorandum of Association and rules and regulations of a society registered under the Societies Registration Act, 1860, in its application to the State of Gujarat; XXI of 1860.
- (9) "Joint Charity Commissioner" means the Joint Charity Commissioner appointed under section 4;
- (10) "manager" means any person (other than a trustee) who, for the time being, either alone or in association with some other person or persons administers the trust property of any public trust and includes -
 - (a) in the case of a math, the head of such math,
 - (b) in the case of a society registered under the Societies Registration Act, 1860, its governing body, whether or not the property of the society is vested in trustees; XXI of 1860.
- (11) "math" means an institution for the promotion of the Hindu religion presided over by a person whose duty is to engage himself in imparting religious instructions or rendering spiritual service to a body of disciples or who exercises or claims to exercise headship over such a body and includes places of religious worship or instruction which are appurtenant to the institution;
- (12) "person having interest" includes-
 - (a) in the case of a temple, a person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple or who is entitled to partake or is in the habit of partaking in the distribution of gifts thereof,
 - (b) in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs,
 - (c) in the case of a society registered under the Societies Registration Act, 1860, any member of such society, XXI of 1860.

- (d) in the case of a trust or a society established for educational or medical purposes or both, any resident of the area where such trust is registered or where such trust or society carries on its activities,
- (e) in the case of any other public trust, any trustee or beneficiary;
- (13) "prescribed" means prescribed by rules;
- (14) "public securities" means -
- (a) securities of the Central Government or any State Government,
- (b) stocks, debentures or shares in Railway or other companies, the interest or dividend on which has been guaranteed by the Central Government or any State Government,
- (c) debentures or other securities for money issued by or on behalf of any local authority in exercise of the powers conferred by an Act of the Central or the State Legislature;
- (15) "public trust" means an express or constructive trust for either a public religious or charitable purpose or both and includes a temple, a math, a church, synagogue, *agiar* or other place of public religious worship, a *dharmada* or any other religious or charitable endowment and a society formed either for a religious or charitable purpose or for both and registered under the Societies Registration Act, 1860.
- XXI of 1860.
- Explanation.* - A public trust established by a person professing Islam, which does not fall within the definition of "wakf" under the Wakf Act, 1995 shall be considered as such for the purpose of this Act;
- 43 of 1995.
- (16) "region" or "sub-region" means the areas designated as such and for which a Public Trusts Registration Office has been established under this Act;
- (17) "rules" means rules made under this Act;
- (18) "temple" means a place by whatever designation known and used as a place of public religious worship and dedicated to or for the benefit of or used as of right by the Hindu Community or any section thereof as a place of public religious worship;
- (19) "tribunal" means the Gujarat Public Trusts Tribunal constituted under section 96;
- (20) "trustee" means a person in whom either alone or in association with other persons, the trust property is vested and includes a manager;
- (21) words and expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882, shall have the meaning assigned to them in that Act. II of 1882.

CHAPTER II

ESTABLISHMENT

Charity Commissioner. 3. (1) For carrying out the purposes of this Act, the State Government shall, by notification in the *Official Gazette*, appoint a person to be the Charity Commissioner for the State.

(2) The Charity Commissioner, shall exercise such powers and shall perform such duties and functions as are conferred by or under the provisions of this Act and shall, subject to such general or special order as the State Government may pass, superintend the administration and carry out the provisions of this Act throughout the State.

Joint Charity Commissioner. 4. (1) The State Government may, by notification in the *Official Gazette*, appoint one or more persons to be called Joint Charity Commissioners who shall, subject to the control of the Charity Commissioner and to such general or special order as the State Government may pass, exercise all or any of the powers and perform all or any of the duties and functions of the Charity Commissioner.

(2) The State Government may, by general or special order, declare a Joint Charity Commissioner to be the regional head to superintend, subject to the control of the Charity Commissioner, the administration in one or more regions or sub-regions, as may be specified in such order.

Qualifications for appointment of Charity Commissioner and Joint Charity Commissioner. 5. (1) A person to be appointed as the Charity Commissioner shall be one –

- (i) who is holding or has held a judicial office not lower in rank than that of a District Judge (Selection Grade), or
- (ii) who has been for not less than ten years an advocate enrolled under the Advocates Act, 1961, or
- (iii) who is a member of All India Service and is qualified to be appointed as the Secretary to Government, or
- (iv) who has worked on the post of Joint Charity Commissioner continuously for a period of five years.

XXV of 1961.

(2) A person to be appointed as the Joint Charity Commissioner shall be one-

- (i) who is holding or has held a judicial office not lower in rank than that of a District Judge (Entry Level) for not less than five years, or
- (ii) who has been for not less than ten years an advocate enrolled under the Advocates Act, 1961, or
- (iii) who has worked on the post of Deputy Charity Commissioner continuously for a period of five years.

XXV of 1961.

6. (1) The State Government may also appoint such number of Deputy and Assistant Charity Commissioners in the office of the Charity Commissioner or for such regions or sub-regions or for such public trusts or such class of public trusts as may be deemed necessary.

Deputy and
Assistant
Charity
Commissioners.

(2) A person to be appointed as a Deputy Charity Commissioner shall be one-

(i) who is holding or has held a judicial office not lower in rank than that of a Senior Civil Judge or a Judge of the Court of Small Causes or any office which in the opinion of the State Government is an equivalent office for not less than three years, or

XXV of 1961.

(ii) who has been for not less than seven years an advocate enrolled under the Advocates Act, 1961, or

(iii) who has worked on the post of Assistant Charity Commissioner continuously for a period of five years.

(3) A person to be appointed as an Assistant Charity Commissioner shall be a person -

(a) who is holding or has held a judicial office not lower in rank than that of a Civil Judge for not less than three years, or

XXV of 1961.

(b) who has been for not less than five years an advocate enrolled under the Advocates Act, 1961.

(4) The Deputy and Assistant Charity Commissioner shall exercise such powers and perform such duties and functions as may be provided by or under the provisions of this Act.

7. For the purposes of carrying out the provisions of this Act, the State Government may appoint, the Director of Accounts and Assistant Directors of Accounts possessing the prescribed qualifications, Inspectors and other subordinate officers and employees possessing such qualifications as may be prescribed and assign to them such powers, duties and functions under this Act, as may be deemed necessary :

Subordinate
Officers.

Provided that the State Government may, by general or special order and subject to such conditions as it deems fit to impose, delegate to the Charity Commissioner powers to appoint subordinate officers and employees as may be specified in the order.

8. The Charity Commissioner, the Joint Charity Commissioner, Deputy and Assistant Charity Commissioner, the Director of Accounts, the Assistant Directors of Accounts, the Inspectors and other subordinate officers and employees appointed under this Act shall be the employees of the State Government and they shall draw their pay and allowances from the Consolidated Fund of the State. The conditions of service of such officers shall be such as may be determined by the State Government.

Charity
Commissioner
and other
officers to be
the employees
of State
Government.

9. There shall be paid every year out of the Public Trusts Administration Fund to the State Government such cost as the State Government may determine on account of the pay, pension, leave and other allowances of the Charity Commissioner, the Joint Charity Commissioner, the Deputy and Assistant Charity Commissioners, the Director of Accounts, the Assistant Directors of Accounts, the Inspectors and other subordinate officers and employees appointed under this Act.

Cost of pay, pension, etc. of Charity Commissioner etc., to be paid to Government out of the Public Trusts Administration Fund.

Delegation. 10. (1) The State Government may delegate any of its powers or functions under this Act to the Charity Commissioner or any other officer subject to such conditions as it thinks fit.

(2) The State Government may also direct that any power exercisable and duties or functions to be performed by any particular officer appointed under this Act may be performed by any other officer subject to such conditions as it thinks fit.

(3) Subject to the direction and control of the State Government, every person appointed under the provisions of this Act shall work under the general guidance, and the superintendence and control of the Charity Commissioner.

CHAPTER III

CHARITABLE PURPOSES AND VALIDITY OF CERTAIN PUBLIC TRUSTS

Charitable purposes.

11. For the purposes of this Act, a charitable purpose includes, -

- (1) relief of poverty or distress,
- (2) education,
- (3) medical relief,
- (4) rehabilitation of persons affected due to earthquake, flood, scarcity or any other natural calamities, and
- (5) the advancement of any other object of general public utility, but does not include a purpose which relates -

- (a) exclusively to sports, or
- (b) exclusively to religious teaching or worship.

Public trust not to be void on ground of uncertainty.

12. Notwithstanding any law, custom or usage, a public trust shall not be void, only on the ground that the persons or objects for the benefit of whom or which it is created are unascertained or unascertainable.

Explanation. - A public trust created for such objects as *dharma*, *dharmada* or *punya-karya*, *punya-dan* shall not be deemed to be void, only on the ground that the objects for which it is created are unascertained or unascertainable.

13. A public trust created for purposes, some of which are charitable or religious and some are not, shall not be deemed to be void in respect to the charitable or religious purpose only on the ground that it is void with respect to the non-charitable or non-religious purpose. **Public trust not void on ground that it is void for non-charitable or non-religious purpose.**
14. Any disposition of property for a religious or charitable purpose shall not be deemed to be void as a public trust, only on the ground that no obligation is annexed with such disposition requiring the person in whose favour it is made to hold it for the benefit of a religious or charitable object. **Public trust not void on ground of absence of obligation.**
15. If any public trust is created for specific object of a charitable or religious nature or for the benefit of a society or institution constituted for a charitable or religious purpose, such trust shall not be deemed to be void only on the ground - **Public trust not void on failure of specific object or society, etc., ceasing to exist.**
- (a) that the performance of the specific object for which the trust was created has become impossible or impracticable, or
 - (b) that the society or institution does not exist or has ceased to exist, notwithstanding the fact that there was no intent for the appropriation of the trust property for a general charitable or religious purpose.

CHAPTER IV

REGISTRATION OF PUBLIC TRUSTS

16. For the purposes of this Act, the State Government may, by notification in the *Official Gazette*, form regions and sub-regions and prescribe or alter limits of such regions and sub-regions. **Regions and sub-regions.**
17. (1) In every region or sub-region there shall be a Public Trusts Registration Office: **Public Trust Registration Offices.**
- Provided that for two or more regions or sub-regions, there may be one Public Trusts Registration Office:
- Provided further that for one region or sub-region there may be one or more Joint Public Trusts Registration Offices.
- (2) To facilitate the administrative work of the regions or sub-regions, the State Government may, having regard to the quantum of work and the number of trusts, set up offices in all the districts under any region or sub-region.
18. The State Government may appoint a Deputy Charity Commissioner or Assistant Charity Commissioner to be in-charge of one or more Public Trusts Registration Offices or Joint Public Trusts Registration Offices. **Deputy or Assistant Charity Commissioner to be in charge of Public Trusts Registration Office.**

Books,
indices and
registers.

19. It shall be the duty of the Deputy or Assistant Charity Commissioner in-charge of every Public Trusts Registration Office or, as the case may be, the Joint Public Trusts Registration Office to keep and maintain such books, indices and other registers containing such particulars as may be prescribed.

Registration
of public
trusts.

20. (1) No institution being an institution covered under clause (15) of section 2 shall function as a public trust or derive any benefit as such under this Act or under any other law for the time being in force unless it is registered with the Charity Commissioner under the provisions of this Act.

(2) It shall be the duty of the trustees of a public trust to make an application for the registration of the public trust.

(3) Such application shall be made to the Deputy or Assistant Charity Commissioner of the region or sub-region within the jurisdiction of which the trustee has an office for the administration of the trust or, as the case may be, the trust property, or substantial portion of the trust property is situated.

(4) Such application shall be in writing and shall be in such form and accompanied by such fees as may be prescribed.

(5) Such application shall be made within three months of its creation.

(6) Such application shall *inter alia* contain the following particulars:

- (i) the designation by which the public trust is or shall be known (hereinafter referred to as "the name of the public trust"),
- (ii) the names and addresses of the trustees and the managers,
- (iii) the mode of succession to the office of the trustees,
- (iv) the list of the movable and immovable trust property and such descriptions and particulars as may be sufficient for the identification thereof,
- (v) the approximate value of the movable property,
- (vi) the approximate value of the immovable property determined on the basis of the certificate of the approved valuer and the value shown in the jantri issued by the revenue authorities alongwith a declaration concerning the mode of acquisition of and the burden over such property,
- (vii) the estimated gross annual income of the public trust,
- (viii) the estimated gross annual expenditure of the public trust,
- (ix) the address to which any communication to trustee or manager in connection with the public trust may be sent,
- (x) the declaration whether any amount by way of contribution, donation or the like is expected by the trust from any place outside the State of Gujarat or India;
- (xi) such other particulars as may be prescribed:

Provided that the rules may provide that in the case of all or any of the public trusts it shall not be necessary to give the particulars of the trust property of such value and such kind as may be specified therein.

(7) Every application made under sub-section (1) shall be signed and verified in the prescribed manner by the trustee specially authorized in this behalf by the trust. It shall be accompanied by a copy of an instrument of trust.

(8) Where on receipt of such application, it is noticed that the application is incomplete in any particulars, or does not disclose full particulars of the public trust, the Deputy or Assistant Charity Commissioner may return the application to the trustee, and direct the trustee to complete the application in all particulars or disclose therein the full particulars of the trust, and resubmit it within the period specified in such direction; and it shall be the duty of the trustees to comply with the direction.

(9) (i) It shall also be the duty of the trustee of the public trust to send a Memorandum in the prescribed form containing the particulars, including the name and description of the public trust, relating to the immovable property of such public trust, to the Sub-Registrar of the sub-district appointed under the Registration Act, 1908, in which such immovable property is situate.

XVI of
1908.

(ii) Such Memorandum shall be sent within three months from the date of creation of the public trust and shall be signed and verified in the prescribed manner by the trustee or his agent specially authorised by him in this behalf.

21. On the receipt of an application under section 20, or, upon an application made by any person having interest in a public trust or on his own motion, the Deputy or Assistant Charity Commissioner shall make an inquiry in the prescribed manner for the purpose of ascertaining - Inquiry for registration.

- (i) whether a trust exists and whether such trust is a public trust,
- (ii) whether any property is the property of such trust,
- (iii) whether such property is subject to any conditions or restrictions laid down or imposed by authority competent under any law for the time being in force or is freehold and unencumbered having clear marketable title as to ownership and possession,
- (iv) whether the whole or any substantial portion of the subject matter of the trust is situate within his jurisdiction,
- (v) the names and addresses of the trustees and manager of such trust,
- (vi) the mode of succession to the office of the trustees of such trust,
- (vii) the origin, nature and object of such trust,
- (viii) the amount of gross annual income and expenditure of such trust, and
- (ix) any other particulars as may be prescribed under sub-section (6) of section 20.

22. On completion of the inquiry provided for under section 21, the Deputy or Assistant Charity Commissioner shall record his findings alongwith the reasons therefor as to each of the matters mentioned in the said section, and may make an order for the payment of the registration fee. Findings of Deputy or Assistant Charity Commissioner.

Entries in
Register.

23. (1) The Deputy or Assistant Charity Commissioner shall make entries in the register kept under section 19 in accordance with the findings recorded by him under section 22 or if appeals or applications are made as provided by this Act, in accordance with the final decision of the Competent Authority provided by this Act.

(2) The entries so made shall, subject to the provisions of this Act and subject to any change recorded under the following provisions, be final and conclusive.

Change.

24. (1) Where any change occurs in any of the entries recorded in the register kept under section 19, the trustee shall, within ninety days from the date of the occurrence of such change, or where any change is desired in such entries or in any of the entries recorded in the register kept under section 19 in the interest of the administration of such public trust, the trustee authorised by the trust shall report such change or proposed change along with the reasons therefor to the Deputy or Assistant Charity Commissioner in-charge of the Public Trusts Registration Office where the register is kept in such form as may be prescribed.

(2) Where the change to be reported under sub-section (1) relates to any immovable property, the trustee shall, along with the report, furnish a Memorandum in the prescribed form containing the particulars (including the name and description of the public trust) relating to any change in the immovable property of such public trust, for forwarding it to the Sub-Registrar referred to in sub-section (9) of section 20. Such Memorandum shall be signed and verified in the prescribed manner by the trustee specially authorised by the trust in this behalf.

(3) For the purpose of verifying the correctness of the entries in the register kept under section 19 or ascertaining whether any change has occurred in any of the particulars recorded in the register, the Deputy or Assistant Charity Commissioner may hold an inquiry in the prescribed manner.

(4) If the Deputy or Assistant Charity Commissioner, as the case may be, after receiving a report under sub-section (1) and holding an inquiry, if necessary, under sub-section (3) or merely after holding an inquiry under the said sub-section (3), is satisfied that a change has occurred in any of the entries recorded in the register kept under section 19 in regard to a particular public trust, or that the trust should be removed from the register by reason of the change, he shall, preferably within sixty days of the date of making an application under sub-section (1), record the findings with the reasons therefor to that effect; and if he is not so satisfied, he shall record findings with reasons therefor accordingly.

(5) Any person interested in the trust, may file an appeal before the tribunal against any findings made under sub-section (4). The Deputy or Assistant Charity Commissioner shall amend or delete the entries in the said register in accordance with the findings which requires an amendment or deletion of entries.

(6) Whenever an entry is amended or the trust is removed from the register under sub-section (5), the Deputy or Assistant Charity Commissioner, as the case may be, shall forward the Memorandum furnished to him under sub-section (2), after certifying the amended entry, to the Sub-Registrar referred to in sub-section (9) of section 20 for the purpose of filing in Book No.1 under section 89 of the Registration Act, 1908, in its application to the State of Gujarat.

(7) In the event of failure of the trustees to report any change that has taken place within ninety days of its occurrence under sub-section (1), such unreported change shall cease to have effect on expiration of ninety days from the date of its occurrence.

25. (1) If any part of the property of any public trust is situated within the limits of more than one region or sub-region, the Deputy or Assistant Charity Commissioner of the region or sub-region within the limits of which the public trust is registered, shall forward a copy of the entries to the Deputy or Assistant Charity Commissioner in-charge of the region or sub-region within the limits of which such part of the trust property is situated.

Procedure where trust property is situate in several regions or sub-regions.

(2) The Deputy or Assistant Charity Commissioner in-charge of such region or sub-region shall make an entry in such book as may be prescribed for the purpose.

(3) A copy of such entry shall also be sent by the Deputy or Assistant Charity Commissioner, as the case may be, to the Sub-Registrar appointed under the Registration Act, 1908 of the sub-district within the limits of which such property or part thereof is situated.

XVI of 1908.

26. No Deputy or Assistant Charity Commissioner shall proceed with an inquiry under section 21 or 24 in regard to any public trust which has been already registered in any other region or sub-region.

Stay of inquiry.

27. (1) If an inquiry under section 21 or 24 in regard to any public trust is pending before more than one Deputy or Assistant Charity Commissioners, the Charity Commissioner shall, on the application of any of the persons having interest in such public trust or on report of any Deputy or Assistant Charity Commissioner before whom such inquiry is pending or on his own motion, determine which of such Deputy or Assistant Charity Commissioner shall proceed with the inquiry in regard to such trust.

Inquiry regarding public trust not to be held by more than one Deputy or Assistant Charity Commissioner.

(2) Upon such determination, no Deputy or Assistant Charity Commissioner, other than the Deputy or Assistant Charity Commissioner specified by the Charity Commissioner, shall proceed with the inquiry in regard to the public trust under section 21 or 24, as the case may be.

28. (1) Any Court of competent jurisdiction deciding any question relating to any public trust which by or under the provisions of this Act is not expressly or impliedly barred from deciding shall cause copy of such decision to be sent to the Charity Commissioner and the Charity Commissioner shall cause the entries in the register kept under section 19 to be made or amended in regard to such public trust in accordance with such decision. The entries so made or amended shall not be altered except in cases where such decision has been varied in appeal or revision by a court of competent jurisdiction. Subject to such alterations, the entries made or amended shall be final and conclusive.

Entries in register to be made or amended in certain cases.

(2) Where the tribunal decides any question in relation to any public trust or passes any order in relation thereto, the Charity Commissioner shall also cause the entries to be made or amended in such register in regard to such public trust in accordance with such decision or order passed by it; and thereupon, the provisions of sub-section (1) shall apply in relation to entries so made or amended as they apply in relation to entries made or amended according to the decision or order of a court.

Copy of entries relating to immovable property to be sent to sub-registrar, revenue and local authorities.

29. The Deputy or Assistant Charity Commissioner shall send a Memorandum in the prescribed form containing entries including the entry of the name and description of the public trust, relating to immovable property of such public trust made by him in the register kept under section 19, to the Sub-Registrar of the sub-district appointed under the Registration Act, 1908 or the revenue or local authority in which such immovable property is situate.

XVI of 1908.

Public Trust created by will.

30. In the case of the public trust which is created by a will, the executor of such will shall within one month from the date on which the probate of the will is granted or within six months from the date of the testator's death which ever is earlier, make an application for the registration in the manner provided in section 20 and the provisions of this Chapter shall *mutatis mutandis* apply to the registration of such trust :

Provided that the period prescribed herein for making an application for registration may, for sufficient cause, be extended by the Deputy or Assistant Charity Commissioner.

Notice of particulars of immovable property entered in register.

31. Any person acquiring any immovable property belonging to a public trust which has been registered under this Chapter or any part of or any share or interest in such property of such trust shall be deemed to have notice of the relevant particulars relating to such trust entered in the register kept under section 19 or filed in Book No.1 under section 89 of the Registration Act, 1908 in its application to the State of Gujarat.

XVI of 1908.

Explanation.- For the purposes of this section, a person shall be deemed to have notice of any particulars in the registers, -

- (i) when he actually knows the said particulars or when, but for willful abstention from any inquiry or search which he ought to have made, or gross negligence, he would have known them;
- (ii) if his agent acquires notice thereof whilst acting on his behalf in the course of business to which the fact of such particulars is material.

Bar to file suits.

32. (1) No public trust shall file a suit or other proceeding to enforce a right on behalf of the public trust unless it is registered under this Act.

(2) The Charity Commissioner shall be the necessary party in any suit or proceeding touching or relating to the public trust before any court, tribunal or other authority and no court, tribunal or authority shall take cognizance of such suit or proceeding unless the Charity Commissioner is a party to such suit or proceeding. Any suit or proceeding decided without joining the Charity Commissioner as party shall be null and void.

(3) The provisions of sub-section (1) shall apply to a claim of set-off or other proceedings to enforce a right on behalf of such public trust.

CHAPTER V

BUDGET, ACCOUNTS AND AUDIT

33. (1) A trustee of a public trust which has an annual income exceeding the prescribed amount shall, at least one month before the commencement of each accounting year, prepare in such form as may be prescribed, a budget showing the probable receipts and disbursement of the trust during the following year.

Trustees of certain trusts to prepare budget.

(2) Every such budget shall make adequate provision for carrying out the objects of the trust, and for the maintenance and preservation of the trust property.

34. Every trustee of a public trust shall keep and maintain accounts in such form and shall contain such particulars as may be prescribed.

Maintenance of accounts.

35. (1) The accounts kept under section 34 shall be balanced each year on the thirty-first day of March or such other day, as may be fixed by the Charity Commissioner.

Balancing and auditing of accounts.

XXXVIII of
1949.

(2) The accounts shall be audited annually by a person who is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949:

Provided that no such person in any way interested in, or connected with the affairs of the public trust shall audit the accounts of such public trust.

(3) Every Auditor acting under sub-section (2) shall have access to the accounts and to all books, vouchers, other documents and records in the possession of or under the control of the trustee; and it shall be the duty of the trustee to make them available for the use of the Auditor.

(4) Notwithstanding anything contained in the preceding sub-sections -

(a) the Charity Commissioner may direct a special audit of the accounts of any public trust to be undertaken by the *Examiner, Local Fund Audit* under the Gujarat Local Fund Audit Act, 1963, whenever in his opinion such special audit is necessary. The Charity Commissioner may direct the payment of such fees as may be prescribed for such special audit; and

XLIX of
1963.

(b) the State Government may, by general or special order, exempt any public trust or class of trusts from the provisions of sub-section (2), subject to such conditions as may be specified in the order.

36. (1) It shall be the duty of every Auditor auditing the accounts of a public trust under section 35 to prepare a balance sheet and income and expenditure account and to forward a copy of the same along with a copy of his report to the trustee, and to the Deputy or Assistant Charity Commissioner of the region or sub-region who shall forward the same to the Charity Commissioner with his remarks.

Auditor's duty to prepare balance sheet and to report irregularities.

(2) It shall be the duty of the trustee of a public trust to file a copy of the balance sheet and income and expenditure account forwarded by the Auditor before the Deputy or Assistant Charity Commissioner of the region or sub-region or to the Charity Commissioner, if the Charity Commissioner requires him to do so.

(3) The Auditor shall in his report specify all cases of irregular, illegal or improper expenditure, or failure or omission to recover moneys or other property belonging to the public trust or of loss or waste of money or other property thereof and state whether such expenditure, failure, omission, loss or waste was caused in consequence of a breach of trust, or misapplication or any other misconduct on the part of the trustees, or any other person.

CHAPTER VI

POWERS AND DUTIES OF AND RESTRICTION ON TRUSTEES

Investment of public trust money. 37. Where the trust property consists of money and cannot be applied immediately or at any early date to the purposes of the public trust, the trustees shall be bound (notwithstanding any direction contained in the instrument of the trust) to deposit the money in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934, in the Postal Savings Bank or in a Co-operative Bank approved by the State Government for the purpose or to invest it in public securities:

II of 1934.

Provided that such money may be invested in the first mortgage of immovable property situate in any part of India if the property is not leasehold for a term of years and the value of the property exceeds by one-half the mortgage money:

Alienation of immovable property of public trust. 38. (1) Notwithstanding anything contained in the instrument of trust -

- (a) any sale, mortgage, exchange, or gift or alienation in any manner of immovable property; or
- (b) any lease of immovable property for a period exceeding three years;

belonging to a public trust, shall be void unless the prior permission is obtained in this regard by making an application to the Charity Commissioner.

(2) The Charity Commissioner may, after affording an opportunity of hearing to the interested parties and the concerned Government authorities if the immovable property sought to be alienated with the prior permission of the Charity Commissioner was acquired by the public trust subject to conditions imposed by such authorities and having regard to the interest, benefit or protection of the trust, grant the permission subject to such conditions as it may think fit to impose. The decision of the Charity Commissioner shall be communicated to the trustees and shall be published in such manner as may be prescribed.

(3) Any person aggrieved by such decision may appeal to the tribunal within thirty days from the date of its publication.

(4) Such decision shall, subject to the provisions of sub-section (3), be final.

39. (1) A trustee of every public trust shall administer the affairs of the trust and apply the funds and properties thereof for the purposes and objects of the trust in accordance with the terms of the trust, usage of the institution and lawful directions which the Charity Commissioner or tribunal may issue in respect thereof, and exercise the same care as a man of ordinary prudence does when dealing with such affairs, funds or property, as if they were his own.

Powers and duties of and restrictions on trustees.

(2) The trustee shall, subject to the provisions of this Act and the instrument of trust, be entitled to exercise all powers incidental to the prudent and beneficial management of the trust, and to do all things necessary for the due performance of the duties imposed on him.

(3) No trustee shall borrow moneys for the purpose of or on behalf of the trust of which he is a trustee, except with the previous sanction of the Charity Commissioner and subject to such conditions and limitations as may be imposed by him in the interest or protection of the trust.

(4) No trustee shall borrow money for his own use from any property of the public trust of which he is a trustee.

40. (1) A public trust shall prepare and maintain a register of all movable and immovable properties (not being property of trifling value) of such trust in such form or forms giving all such information, as may be prescribed.

Register of movable and immovable properties.

(2) Such register shall show the jewels, gold, silver, precious stones, vessels and utensils and all other movable property belonging to the trust with their description, weight and estimated value.

(3) Such register shall be signed by all the trustees after verifying its correctness, and shall be made available to the Auditor for the purpose of auditing if the accounts are required to be audited under the provisions of this Act. Where the accounts are not required to be audited, the trustees shall file a copy of such register duly signed and verified, with the Deputy or Assistant Charity Commissioner of the region.

(4) The Auditor shall mention in the audit report whether such register is properly maintained or not, and the defects or inaccuracies, if any, in the said register and trustees shall comply with the suggestions made by the auditor and rectify the defects or inaccuracies mentioned in the audit report within a period of three months from the date on which the report is sent to the trustees.

(5) Every year within three months from the date of balancing the accounts, the trustees shall scrutinize such register, and shall bring it up-to-date by showing alterations, omissions or additions to the same and such changes shall be reported to the Deputy or Assistant Charity Commissioner in the manner provided in section 24.

CHAPTER VII

CONTROL

Power of inspection and supervision. 41. (1) The Charity Commissioner, the Deputy or Assistant Charity Commissioner or any Gazetted Officer authorised by the State Government by a general or special order shall have power -

- (a) to enter on and inspect or cause to be entered on and inspected any property belonging to a public trust at reasonable hours of the day;
- (b) to call for or inspect proceedings of the trustees of any public trust, and any books of account or document in the possession or under the control of the trustees or any person connected with the trust;
- (c) to call for any return, statement, account or report which he may think fit from the trustees or any person connected with a public trust;
- (d) to get the explanation of the trustee or any person connected with the public trust and reduce or cause to be reduced to writing any statement made by him :

Provided that in entering upon any property belonging to the public trust, the officers making the entry shall give notice to the trustees and shall have due regard to the religious practices or usages of the trust.

(2) It shall be the duty of every trustee to afford all reasonable facilities to any officer exercising any of the powers under sub-section (1) and the trustees or any person connected with the public trust shall comply with any order made or direction issued by such officer in exercise of the power conferred upon him by or under sub-section (1).

(3) If on inspection of the affairs of a public trust under this section, it is noticed by the Deputy or Assistant Charity Commissioner or the officer authorised under sub-section (1) that there is a loss caused to the public trust on account of gross negligence, a breach of trust, misapplication or misconduct on the part of a trustee or any person connected with the trust, the Deputy or Assistant Charity Commissioner or the officer authorized under sub-section (1) shall submit report thereof to the Charity Commissioner who shall act in accordance with section 44.

Explanation on report of Auditor. 42. On receipt of a report of the Auditor under section 36 or on receipt of a complaint in respect of any public trust, the Deputy or Assistant Charity Commissioner to whom the report is submitted or complaint is made shall require the trustee or any other person concerned to submit an explanation thereon within such period as he thinks fit.

Report to Charity Commissioner. 43. On considering the report referred to in section 41, and the accounts and explanation, if any, furnished by the trustees connected with the public trust, the Deputy or Assistant Charity Commissioner shall record his findings on the question whether or not a trustee or the person connected with the trust has been guilty of gross negligence, breach of trust, misappropriation or misconduct which has resulted in loss to the trust, and make a report thereof to the Charity Commissioner.

44. The Charity Commissioner shall, after considering the report of the Deputy or Assistant Charity Commissioner, and after giving an opportunity to the person concerned and holding such inquiry as he thinks fit, –

Power of
Charity
Commissioner
on report
under section
43.

(1) determine --

- (a) the amount of loss caused to public trust ;
- (b) whether such loss was due to any gross negligence, breach of trust, mis-application or misconduct on the part of any person;
- (c) whether any of the trustees, or any person connected with the public trust was responsible for such loss;
- (d) the amount which any of the trustees or any person connected with the public trust is liable to pay to the public trust for such loss, or

(2) remand the matter for further inquiry to the officer who made the report or to any other officer as he thinks fit or for reasons to be recorded in writing, compromise or may drop the matter if a suit is instituted for obtaining a decree for a direction for taking accounts under section 52.

45. (1) If the Charity Commissioner decides that any person connected with the trust is liable to pay to the public trust any amount for the loss caused to the trust, the Charity Commissioner may direct that the amount shall be surcharged on such person.

Order of
surcharge.

(2) Subject to the provisions of section 97, the order of the Charity Commissioner under sub-section (1) shall be final and conclusive.

(3) The decision of the Charity Commissioner under sub-section (1) shall be deemed to be a decree of the court.

46. (1) Subject to the provisions of this Act and on direction of the State Government, the Charity Commissioner may, from time to time, issue directions to any trustee of a public trust or any person connected therewith to ensure that such trust is properly administered and the income thereof is properly accounted for or duly appropriated and applied to the objects and for the purposes of the trust and also where he finds that any property of the trust is in danger of being wasted, damaged, alienated or wrongfully sold, removed or disposed of.

Power of
Charity
Commissioner
to issue
directions to
trustees and
other persons.

(2) It shall be the duty of every trustee or of such person to comply with the directions issued under sub-section (1).

47. (1) Notwithstanding anything contained in any instrument of trust or in any contract, with a view to making essential medical facilities available to the poorer classes of the people, either free of charge or at concessional rates, it shall be lawful for the Charity Commissioner, subject to such general or special orders as the State Government may, from time to time, issue in this behalf, to issue all or any of the following directions to the trustees of, or persons connected with, any such public trust, which maintains a hospital (including any nursing home or maternity home), dispensary or any other centre for medical relief (hereinafter in this section referred to as "the medical centre") as follows, namely : -

Power of
Charity
Commissioner
and State
Government to
issue directions
in respect of
medical
facilities to
poorer
patients.

- (a) to reserve and earmark ten per cent. of the total number of operational beds and ten per cent. of the total capacity of patients treated at such medical centre, for medical examination and treatment in each department of the medical centre, in such manner as may be specified in the directions, for the indigent patients seeking admission or treatment, who shall be medically examined and treated and admitted, as the case may be free of charge;
- (b) to reserve and earmark ten per cent. of the total number of operational beds and ten per cent. of the total capacity of patients treated at such medical centre, for medical examination and treatment in each department of the medical centre, in such manner as may be specified in the directions, for the weaker sections of the people seeking admission for medical examination and treatment, who shall be charged according to such rates as the State Government may, by general or special order, determine from time to time, having regard to the rates charged by the State Government in the corresponding; medical centers maintained by it;
- (c) to comply with such other incidental or supplemental requirements as may be specified in the directions or in any general or special orders issued thereunder:

Provided that while issuing any directions as aforesaid, the Charity Commissioner shall take into consideration such facilities as are already made available by any such medical centre and having regard to the availability of such facilities may give appropriate directions if any, consistent with and subject to the percentage specified in clauses (a) and (b).

Explanation. - For the purposes of this sub-section, -

- (a) "indigent person" means a person whose total annual income does not exceed six thousand rupees or such other limit as the State Government may, from time to time, by notification in the *Official Gazette*, specify;
 - (b) "person belonging to the weaker sections of the people" means a person who is not an indigent person, but whose income does not exceed one lakh rupees per annum or such other limit as the State Government may from time to time, by notification in the *Official Gazette*, specify.
- (2) (a) It shall be lawful for the officer duly authorised by the State Government in this behalf, or for the Charity Commissioner by himself or through his representative duly authorised by him in this behalf, to verify the implementation of the directions given under sub-section (1) to any medical centre, and, for that purpose, visit, inspect and call for information and returns periodically or otherwise.
- (b) It shall be the duty of every trustee of, or person connected with, such medical centre to comply with the direction issued under sub-section (1) and to afford all reasonable facilities and assistance required by the said officer or the Charity Commissioner or his representative for verification of the

implementation of such directions under clause (a) and to comply with the requirements thereunder.

- (c) In case there arises any dispute relating to the interpretation, implementation or any matter whatsoever in respect of any direction issued under sub-section (1), it shall be referred to the State Government, through the Charity Commissioner, for appropriate directions.

(3) It shall be the duty of the governing body (by whatsoever name called) of every medical centre to get the category of a patient duly verified and recorded in a register kept for the purpose in the prescribed form before he is admitted or treated as a patient within the reserved and earmarked percentage under sub-section (1). If there is any dispute as to the category of a patient, it shall be referred to the Charity Commissioner, for appropriate direction.

48. (1) On receipt of a complaint in writing from any person having interest in respect of any public trust or on the receipt of any direction of from the State Government, the Charity Commissioner or Deputy or Assistant Charity Commissioner specially authorized by the Charity Commissioner may institute an inquiry with regard to charities or a particular charity or class of charities either generally, or for particular purposes.

Power to
institute
inquiries.

(2) The officers aforesaid may either hold inquiry themselves or entrust such inquiry to the officer authorised under sub-section (1) of section 41.

(3) For the purpose of any such inquiry, the officer holding the inquiry may by notice, require any person to attend at a specified time and place and give evidence or produce documents in his custody or control which relate to any matter in question at the inquiry.

(4) For the purpose of any such inquiry, evidence may be taken on oath and the person holding the inquiry may for that purpose administer an oath under the Oaths Act, 1969, or may instead of administering an oath on solemn affirmation require the person to make and subscribe a declaration of the truth of the matters about which he is examined.

44 of 1969.

(5) The necessary expenses of any person of his attendance to give evidence or produce documents for the purpose of the inquiry shall be paid as may be directed by the Charity Commissioner.

(6) After the completion of the inquiry, the person holding the inquiry (not being the Charity Commissioner) shall submit his report to the officer who entrusted such inquiry to him.

(7) The Deputy or Assistant Charity Commissioner of the region concerned shall submit his own report or report received by him under this section to the Charity Commissioner with his remarks thereon. The Charity Commissioner may, if he is satisfied that there is a *prima facie* case against the trustees, take such steps as are necessary under the provisions of this Act.

(8) The Charity Commissioner may himself also call for the proceedings of any inquiry made under this section for such action as he may think fit.

CHAPTER VIII

OTHER FUNCTIONS AND POWERS OF CHARITY COMMISSIONER

Power of Charity Commissioner to sue, etc. 49. The Charity Commissioner may sue or be sued in his name and shall, subject to the provisions of this Act, be competent to acquire, hold or dispose of property, both movable and immovable, and to contract and do all things necessary for the purposes of this Act.

Charity Commissioner to be Treasurer of Charitable Endowments under Act VI of 1890. 50. The Charity Commissioner shall be deemed to be and to have always been the Treasurer of Charitable Endowments appointed under the provisions of the Charitable Endowments Act, 1890 and the property so vested in the said Treasurer before the date on which this Act comes into force shall be deemed to vest in the Charity Commissioner as the Treasurer of Charitable Endowments and the provisions of the said Act shall apply to the Charity Commissioner as the Treasurer of Charitable Endowments appointed under the said Act. VI of 1890.

Power of tribunal to appoint new trustee or trustees. 51. (1) Any person interested in a public trust or the Charity Commissioner, may apply to the tribunal for the appointment of a new trustee, where there is no trustee for such trust or the trust cannot be administered until the vacancy is filled or for the suspension, removal or discharge of a trustee, when a trustee of such trust -

- (a) disclaims or dies;
- (b) is for a continuous period of six months absent from India without the leave of the Charity Commissioner or the Deputy or Assistant Charity Commissioner in this behalf;
- (c) leaves India for the purpose of residing abroad;
- (d) is declared an insolvent;
- (e) desires to be discharged from the trust;
- (f) refuses to act as a trustee;
- (g) becomes, in the opinion of the tribunal, unfit or physically incapable to act in the trust or accepts a position which is inconsistent with his position as trustee;
- (h) in any of the cases mentioned in Chapter III, is not available to administer the trust; or
- (i) is convicted of an offence punishable under this Act or an offence involving moral turpitude.

(2) The tribunal may, after hearing the parties and making such enquiry as it may deem fit, by order appoint any person as a trustee or may also remove or discharge any trustee for any of the reasons specified in sub-section (1).

(3) In appointing a trustee under sub-section (2), the tribunal shall have regard -

- (a) to the wishes of the author of that trust;
- (b) to the wishes of the person, if any, empowered to appoint a new trustee;

- (c) to the question whether appointment will promote or impede the execution of the trust;
 - (d) to the interest of the public or the section of the public who have interest in the trust; and
 - (e) to the custom and usage of the trust.
- (4) It shall be lawful for the tribunal upon making any order appointing a new trustee under sub-section (2) either by the same or by any subsequent order to direct that any trust property shall vest in the person so appointed and thereupon it shall so vest.
- (5) The order of the tribunal under sub-section (2) shall be deemed to be the decree of the Court and an appeal shall lie there from to the High Court.

52. In any case, -

- (i) where it is alleged that there is a breach of public trust, negligence, misapplication or misconduct on the part of a trustee or trustees;
- (ii) where a direction or decree is required to recover the possession of, or to follow a property belonging or alleged to be belonging to a public trust or the proceeds thereof or for an account of such property from a trustee, ex-trustee, alienee, trespasser or any other person including a person holding adversely to the public trust but not a tenant or licensee;
- (iii) where the direction of the tribunal is deemed necessary for the administration of any public trust; or
- (iv) for any declaration or injunction in favour of or against a public trust or trustee or beneficiary thereof,

Suits relating to public trusts.

the Charity Commissioner after making such inquiry as he thinks necessary, or two or more persons having an interest in case the suit is under sub-clauses (i) to (iii), or one or more such persons in case the suit is under sub-clause (iv) having obtained the consent in writing of the Charity Commissioner or with the permission of the tribunal as provided in section 53 may institute a suit whether contentious or not in the tribunal within the local limits of whose jurisdiction the whole or part of the subject-matter of the trust is situate, to obtain a decree for any of the following reliefs :

- (a) an order for the recovery of the possession of such property or proceeds thereof;
- (b) the removal of any trustee or manager;
- (c) the appointment of a new trustee or manager;
- (d) vesting any property in a trustee;
- (e) a direction for taking accounts and making certain inquiries;
- (f) an order directing the trustees or others to pay to the trust the loss caused to the same by their breach of trust, negligence, misapplication, misconduct or wilful default;

- (g) a declaration as to what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust;
- (h) a direction to apply the trust property or its income cypres on the line of section 57 if this relief is claimed alongwith any other relief mentioned in this section;
- (i) a direction authorising the whole or any part of the trust property to be let, sold, mortgaged or exchanged or in any manner alienated on such terms and conditions as the Court may deem necessary;
- (j) an order for winding-up of any trust and applying the funds for other charitable purposes;
- (k) an order exonerating the trustees from technical breaches, etc;
- (l) an order varying, altering, amending or superseding any instrument of trust :
- (m) declaring or denying any right in favour of or against a public trust or trustee or trustees or beneficiary thereof and issuing injunctions in appropriate cases; or
- (n) granting any other relief as the nature of the case may require which would be a condition precedent to or consequential to any of the aforesaid reliefs or is necessary in the interest of the trust:

Provided that no suit claiming any of the reliefs specified in this section shall be instituted in respect of any public trust, except in conformity with the provisions thereof.

Consent of
Charity
Commissioner
for institution
of suit.

53. (1) If the persons having an interest in any public trust intend to file a suit of the nature specified in section 52, they shall apply to the Charity Commissioner in writing for his consent. If the Charity Commissioner, after hearing the parties and making such enquiries as he thinks fit is satisfied that there is a *prima facie* case, may, within a period of three months from the date on which the application is made, grant or refuse his consent to the institution of such suit. The order of the Charity Commissioner refusing his consent shall be in writing and shall state the reasons for the refusal. In case the Charity Commissioner fails to grant or refuse his consent to the institution of suit within such period, the consent shall be deemed to have been granted.

(2) If the Charity Commissioner refuses his consent to the institution of the suit under sub-section (1), the person aggrieved may institute the suit with the permission of the tribunal.

Power of
Charity
Commissioner
to frame,
amalgamate or
modify
schemes.

54. (1) Notwithstanding anything contained in section 53, where the two or more persons having interest in a public trust make an application to him in writing in the prescribed manner that, in the interest of the proper management or administration of a public trust, a scheme should be settled for it or where the State Government so directs, the Charity Commissioner may, if, after giving the trustees of such trust due opportunity to be heard, satisfied that it is necessary or expedient so to do, frame a scheme for the management or administration of such trust.

(2) Where the Charity Commissioner is of the opinion that in the interest of the proper management or administration, two or more public trusts may be amalgamated by framing a common scheme for the same, he may, after -

- (a) publishing a notice in the *Official Gazette*, and also if necessary in any newspaper which, in the opinion of the Charity Commissioner, is best circulated to bring to the notice of persons likely to be interested in the trust with a wide circulation in the region in which the trust is registered, and
- (b) giving the trustees of such trusts and all other interested persons due opportunity to be heard,

frame a common scheme for the same.

(3) The Charity Commissioner may, at any time, after hearing the trustees, modify the schemes framed by him under sub-section (1) or sub-section (2).

(4) The scheme framed under sub-section (1) or sub-section (2) or modified under sub-section (3) shall, subject to the decision of the tribunal under section 97, have the effect as a decree of a court.

55. No suit against an assignee of any immovable property of the public trust for the purpose of following in his hands such property or the proceeds thereof, or for an account of such property or proceeds, shall be barred by any length of time. **Suit against assignee not barred by time.**

56. (1) Where according to the custom or usage of any business or trade or the agreement between the parties relating to any transaction, any amount is charged to any party to the said transaction or collected under whatever name, as being intended to be used for a charitable or religious purpose, the amount so charged or collected (in this Act called '*dharmada*') shall vest in the person charging or collecting the same as a trustee. ***Dharmada.***

(2) Any person charging or collecting such sums shall within three months from the expiration of the year for which his accounts are ordinarily kept, submit the account in such form as may be prescribed, to the Deputy or Assistant Charity Commissioner.

(3) The Deputy or Assistant Charity Commissioner shall have power to make such inquiry as he thinks fit to verify the correctness of the account submitted and may pass order for the disposal of the amount in the manner prescribed.

(4) The provisions of Chapter IV shall not apply to *dharmada*.

57. (1) If upon an application made to him or otherwise, the Charity Commissioner is of the opinion that - **Cypres.**

- (a) the original object for which the public trust was created has failed,
- (b) the income or any surplus balance of any public trust has not been utilized or is not likely to be utilized,
- (c) in the case of a public trust other than a trust for a religious purpose, it is not in public interest expedient, practicable, desirable, necessary or proper to carry out wholly or partially the original intention of the author of the public trust or the object for

which the public trust was created and that the property or the income of the public trust or any portion thereof should be applied to any other charitable or religious object,

- (d) in any of the cases mentioned in sections 11 to 14 or in regard to the appropriation of the *Dharmada* sums held in trust under section 56, the directions of the tribunal are necessary,

the Charity Commissioner shall require the trustees to apply within the prescribed time for directions to the tribunal and the trustees shall comply with such requisition.

- (2) If the trustees fail to make the application as required under sub-section (1) or if there is no trustee of the public trust, the Charity Commissioner shall make an application to the tribunal.

Power of the
tribunal to
hear
application.

58. (1) On the application being made under section 57, the tribunal after hearing the parties and the Charity Commissioner and making an inquiry shall decide the matter and shall give directions. In giving the directions, the tribunal shall, so far as may be expedient, practicable, desirable, necessary or proper in public interest, give effect to the original intention of the author of the public trust or the object for which the public trust was created. If the tribunal is of the opinion that the carrying out of such intention or object is not wholly or partially expedient, practicable, desirable, necessary or proper in public interest, the tribunal may direct the property or income of the public trust or any portion to be applied cypres to any other charitable or religious object. In doing so, it shall be lawful for the tribunal to alter any scheme already settled or to vary the terms of any decree or order already passed in respect to the public trust or the conditions contained in the instrument of the public trust.

- (2) Any decision or order passed by the tribunal under sub-section (1) shall be deemed to be a decree of such court and an appeal shall lie therefrom to the High Court.

Power of
trustee to
apply for
directions.

59. (1) Save as hereinbefore provided in this Act, any trustee of a public trust may apply to the tribunal, within the local limits of whose jurisdiction the whole or part of the subject-matter of the trust is situate, for the opinion, advice or direction of the tribunal on any question affecting the management or, administration of the trust property or income thereof, and the tribunal shall give its opinion, advice, or direction, as the case may be, thereon:

Provided that the tribunal shall not be bound to give such opinion, advice or direction on any question which it considers to be a question not proper for summary disposal.

- (2) The tribunal, on an application under sub-section (1), may give its opinion, advice or direction thereon after giving notice to the Charity Commissioner. The tribunal, before giving any opinion, advice or direction, shall afford a reasonable opportunity of being heard to all persons appearing in connection with the application.

- (3) A trustee stating in good faith the facts of any matter relating to the trust in application under sub-section (1) and acting upon the opinion advice or direction of the tribunal given thereon, shall be deemed, as far as his

responsibility is concerned, to have discharged his duty as such trustee in the matter in respect of which the application was made.

(4) No appeal shall lie against any opinion, advice or direction given by the tribunal under this section.

60. (1) In any suit or legal proceedings in which it appears to the Court that any question affecting a public religious or charitable purpose is involved, the Court shall not proceed to determine such question until after notice has been given to the Charity Commissioner.

Proceedings involving question affecting public charitable or religious purpose.

(2) If upon the receipt of such notice or otherwise the Charity Commissioner makes any application in that behalf, he shall be added as a party of such suit or proceedings.

Explanation.- For the purpose of this section 'Court' means any Civil Court of competent jurisdiction in the State of Gujarat.

CHAPTER IX

SPECIAL PROVISIONS AS RESPECTS RELIGIOUS AND CHARITABLE INSTITUTIONS AND ENDOWMENTS WHICH VEST IN, OR THE MANAGEMENT OF WHICH VEST IN THE STATE GOVERNMENT

61. (1) The provisions of this chapter shall apply to every temple, mosque or endowment created for a public religious or charitable purpose (hereinafter in this chapter referred to as 'the endowment') which vests in, or the management of which vests in, the State Government and which -

Provisions of Chapter IX to apply to certain endowments.

(i) has been registered under the provisions of this Act as, or

(ii) is declared by the State Government by notification in the *Official Gazette*, after such inquiry as it thinks fit, and after previous publication, to be a public trust.

On such declaration such endowment shall be deemed to be a registered public trust for the purposes of this Act and the provisions of Chapter IV relating to the registration of public trusts shall as far as may be apply to the making of entries in the register kept under section 19, provided that such entries shall also conform to the provisions of this Chapter. The entries so made shall be final and conclusive.

(2) The State Government shall, as soon as may be, after the commencement of this Act, publish in the *Official Gazette*, a list of such endowments as are registered as, or declared to be, public trusts, and the State Government may, by like notification and in like manner, add to or delete from such list any endowment entered therein.

Vesting or
transfer of
management
of certain
endowments.

62. The State Government shall, from such date as it determines, and in the manner hereinafter provided, transfer the endowment, or the management thereof to a committee (hereinafter referred to as 'committee') and thereupon such endowment together with all the immovable or moveable property appertaining thereto, or as the case may be, management thereof, shall vest in the members of such committee; and the members of the committee shall be the trustees of such endowment within the meaning and for the purposes of this Act.

Committee of
management.

63. (1) Notwithstanding anything contained in sections 51 and 52 for the purpose of vesting or transferring the management of the endowment under the provisions of this Chapter, to a committee, the State Government shall, by notification in the *Official Gazette*, appoint (under such name as may be specified in the notification) one or more committees, for one or more districts as the State Government may think fit.

(2) The committee shall have power to acquire, hold and dispose of property, subject to such conditions and restrictions as may be prescribed and may sue and be sued in the names of all the members of the committee.

(3) A committee shall consist of not less than five and not more than seven members, and the members in the case of a religious endowment shall, and in any other case may, be appointed from amongst persons professing the religion or belonging to the religious denomination (or any section thereof), for the purposes of which or for the benefit of whom the endowment was founded or is being administered. The members shall be appointed, as far as possible, and in accordance so far as can be ascertained with the general wishes of those who are interested in the administration of such endowment.

Term of
office of
members of
committee.

64. (1) A member shall be appointed to a committee for a period of five years, and shall be eligible for re-appointment.

(2) A member may, by writing under his hand addressed to the State Government, resign his membership of a committee:

Provided that such resignation shall not take effect until the resignation has been accepted by the State Government.

Disqualification
of membership.

65. (1) A person shall be disqualified for appointment, as or for being a member of a committee, if he –

- (i) is a minor;
- (ii) has been convicted by a criminal court of any offence involving moral turpitude;
- (iii) is of unsound mind, and is so declared by a competent court;
- (iv) is an undischarged insolvent;
- (v) has directly or indirectly interest in a lease or any other transaction relating to the property vesting in the committee;
- (vi) is a paid servant of the committee or has any share or interest in a contract for the supply of goods to, or for the execution of any works, or the performance of any service, undertaken by the committee in respect of the endowment;

- (vii) is found to be guilty of misconduct by the State Government; or
- (viii) in the case of a religious endowment ceases to profess the religion or to belong to the religious denomination for which the committee is appointed.

(2) If it appears to the State Government that a member has incurred any of the disqualifications aforesaid, the State Government may, after giving such member an opportunity of showing cause, and after considering any such cause shown, remove such person from membership and the decision of the State Government shall be final.

(3) Notwithstanding anything contained in any other law for the time being in force, a member of the committee shall not be disqualified from being chosen as, and for being a member of, the Gujarat Legislative Assembly or any local authority by reason only of the fact that he is a member of such committee.

66. The State Government may appoint a new member, when a member of a committee --

Power of State Government to appoint new member.

- (a) resigns or dies;
- (b) is for a continuous period of six months absent from India without leave of the Charity Commissioner;
- (c) leaves India for the purpose of residing abroad;
- (d) desires to be discharged;
- (e) refuses to act; or
- (f) is removed by the State Government.

67. (1) The State Government shall, from amongst the members of a committee, appoint a Chairman and shall also appoint a Treasurer.

Chairman and treasurer of committee.

(2) The State Government may direct that the Chairman, Treasurer and other members of the committee may be paid such honorarium or fees and allowances from the Management Fund constituted under section 76 and in such manner as may be prescribed.

68. The committee shall meet at such intervals and follow such procedure in exercising its powers and discharging its duties and functions as may be prescribed; but the day-to-day proceedings and routine business shall be dispatched in accordance with regulations made by it, and approved by the State Government.

Meeting of and procedure for committee.

69. The committee may, by resolution, appoint such sub-committees as it may think fit, and may delegate to them such powers and duties as it specifies in the resolution, and a committee or sub-committee may associate with itself, generally or for any particular purpose, in such manner as may be determined by regulations, any person who is not a member, but whose assistance or advice it may desire, and the person associated as aforesaid shall have the right to take part in the discussions of the committee or sub-committee, relevant to that purpose, but shall not have the right to vote at any meeting thereof.

Power of Committee to appoint sub-committees.

Secretary and
other officers
of committee.

70. (1) The State Government may appoint a Secretary to the Committee.
- (2) The committee may appoint such officers (other than the Secretary) and employees as it may think necessary for the efficient performance of the duties and functions of the committee under this Act:

Provided that no officer or employee, who is paid or is to be paid a salary of over two thousand rupees per men sum shall be appointed by a committee without the previous approval of the State Government.

Terms and
conditions of
service of
Secretary and
other employees.

71. (1) The Secretary, officers and employees shall be appointed on such terms and conditions as may be prescribed by rules, or as the case may be, by regulations made by the committee.
- (2) The salary and allowances of the secretary, officers and employees of a committee shall be paid out of the Management Fund.

General
duties of
committee.

72. (1) Subject to the general and a special orders of the State Government, it shall be the general duty of a committee to manage and administer the affairs of the endowment which vests in, or the management of which vests in it. It shall be the duty of a committee to so exercise the powers conferred and discharge the duties and functions imposed upon it, by or under this Act or under any instrument of trust, or a scheme, for the time being in force relating to such endowment as to ensure that such endowment is properly maintained, controlled and administered and the income thereof is duly applied to the objects and purposes for which it was created, intended or to be administered.

(2) In particular, but without prejudice to the generality of the foregoing provisions, a committee shall -

- (a) maintain the record containing information relating to the origin income, object and the beneficiaries of every such endowment;
- (b) prepare a budget estimating its income and expenditure;
- (c) make regular payment of salaries and allowances and other sums payable to the Secretary, officers and employees of a committee from such fund as may be prescribed;
- (d) keep separate accounts for each such endowment;
- (e) ensure that the income and property of the endowment are applied to the objects and for the purposes for which such endowment was created intended or is to be administered;
- (f) take measures for the recovery of lost properties of any such endowment;
- (g) institute and defend any suits and proceedings in a court of law relating to such endowment;
- (h) supply such returns, statistics, accounts and other information with respect to such endowment as the State Government may from time to time require;
- (i) inspect, or cause the inspection of the properties of such endowment; and
- (j) generally do all such acts as may be necessary for the proper control, maintenance and administration of such endowment.

73. No act or proceedings of a committee shall be invalid by reason only of the existence of any vacancy amongst its members, or any defect in the constitution thereof. **Act and proceedings not invalidated by reason of vacancy or defect.**
74. The State Government may, from time to time, for the better management or administration of any endowment issue directions to a committee. **Power of State Government to issue directions.**
75. The Charity Commissioner may, with the previous sanction of the State Government, provide for the performance of any duty which a committee is bound to perform under the provisions of this Act, or the rules or directions made or given thereunder, and may direct that the expenses of the performance of such duty be paid by any person who may have from time to time the custody of any fund belonging to the committee. If such duty is in connection with any endowment, the payment shall be made out of the funds belonging to the said endowment. **Power of Charity Commissioner to require duties of committee to be performed and to direct expenses in respect thereof to be paid from fund of committee, etc.**
76. (1) For each managing committee there shall be constituted a fund to be called the "Management Fund" which shall vest in, and be under the control of, the committee. **Management Fund.**
- (2) There shall be placed to the credit of every Management Fund of every managing committee -
- (a) the total balance (whether in cash, securities or in any other form) standing to the credit of any endowment held by the State Government immediately before such endowment or the management thereof was transferred to, and vested in, the members of the committee under section 62.
 - (b) a sum not exceeding ten per cent. of the gross annual income of each endowment transferred to, or placed under the management of, the members of the committee as the committee may, with approval of the State Government, fix in this behalf. In fixing such sum regard shall be had to the gross annual income of the endowment, the average annual expenditure incurred to give effect to the objects and purposes for which the endowment is founded, created, intended or is being administered, the liability, if any, to which the endowment is subject and any other factors which the State Government may either generally or specially specify in the case of any endowment or class of endowments :
- Provided that the State Government may, by rules, provide for exemption for any endowment or class of endowments from the whole sum or any part of such sum;

- (c) the fees charged for inspection of proceedings of the committee, and for copies of records maintained by the committee;
- (d) any other sum which the State Government may, by order, specify in this behalf.

(3) The Management Fund of a managing committee shall, subject to the provisions of this Act and subject to any general or special order of the State Government, be applied to -

- (i) the payment of honorarium, fees and allowances of the Chairman, Treasurer and other members of the committee;
- (ii) the payments of salaries, allowances and other sums payable to the Secretary and other officers and employees of the committee;
- (iii) the payment of any expenses lawfully incurred by the committee in the exercise of its powers and in the performance of its duties and functions as provided by section 72.

(4) The custody and investment of the moneys credited to the Management Fund and disbursement and payment therefrom and the credit of accounts of the Fund shall be regulated in the prescribed manner.

Power to
supersede
committee.

77. (1) If the State Government is of the opinion that a committee is unable to perform or has persistently made default in the performance of, the duties imposed upon it by or under this Act, or has exceeded or abused its powers, the State Government may, by notification in the *Official Gazette* supersede the committee for such period as may be specified in the notification:

Provided that, before issuing a notification under this sub-section, the State Government shall give a reasonable opportunity to the committee to show cause why it should not be superseded and consider the explanations and objections, if any, of the committee.

(2) Upon the publication of a notification under sub-section (1) superseding a committee --

- (a) all the members of the committee shall, as from the date of supersession, vacate their offices as such members;
- (b) all the powers, duties and functions which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the committee, shall during the period of supersession, be exercised and performed by such person or persons as the State Government having regard to the provisions of sub-section (1) of section 65 may direct; and
- (c) all property vested in, or the management of which is vested in, the committee shall during the period of supersession vest in the State Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the State Government may-

- (a) extend the period of supersession for such further period as it may consider necessary, or
- (b) reconstitute the committee in the manner provided in section 63.

78. (1) Notwithstanding anything contained in this Chapter or any other provisions of this Act, or in any judgment, decree, order or scheme of any court, Charity Commissioner or any other authority, where a committee of management has been appointed by the State Government under section 63 in respect of any endowment or endowments, and the State Government is of the opinion that for better management and administration of the endowments, the management of the said endowments should be taken over temporarily by the State Government and then should be governed by a scheme or schemes framed by the Charity Commissioner or should be handed over again to the committee as reconstituted, the State Government may, by notification in the *Official Gazette* , -

Power of removal of members of committee and appointment of Administrator temporarily.

(a) terminate the appointment of all the existing members of the Committee (including Chairman and treasurer), even before the expiry of their term of office of five years, on and from such date as may be specified in the notification, whereupon they shall be deemed to have vacated their office on that date;

(b) appoint a Government officer from time to time, as the Administrator of the committee, for such period not exceeding three years as may be specified in the notification, which may be extended by like notification, from time to time, so however, that the total period shall not exceed five years:

Provided that, if during the said period the committee is reconstituted, the Administrator shall cease to hold his office from the day the committee is reconstituted or as and when any scheme is framed by the Charity Commissioner in respect of any endowment the Administrator shall cease to function in respect of that endowment from the day the scheme comes in operation.

(2) During the period the Administrator is holding his office, all the powers, duties and functions of the committee and its members and sub-committee, if any, under this Act or any other law for the time being in force, shall be exercised, performed and discharged by the Administrator and he shall be deemed to be the sole trustee in respect of the endowments under his management under section 62.

(3) The Administrator may delegate any of his powers, duties and functions to any officer or employee of the committee or with the previous approval of the State Government, to any other Government officer.

(4) The Administrator and any other Government officer to whom he may have delegated any of his powers, duties and functions shall receive such salary and allowances from the Management Fund and be subject to such other conditions of service as the State Government may, by general or special order, determine.

79. (1) The committee may, with the approval of the State Government make regulations not inconsistent with this Act or the rules made thereunder for carrying out its functions under this Act.

Power to make regulations.

(2) In particular, but without prejudice to the generality of the foregoing provisions, such regulations may provide for all or any of the following matters, namely :-

- (i) dispatch of day-to-day proceedings and routine business of the committee under section 68,

- (ii) the manner in which any person who is not a member of a committee or sub-committee may be associated with such committee or sub-committee and, as the case may be, under section 69,
- (iii) terms and conditions of service of the employees of a committee under section 70.

Non-application of certain provisions of this Act to endowments.

80. Except so far as is expressly provided in the provisions of this Chapter, nothing in sections 20, 21, 22, 23, 117 and 118 shall apply to the endowment to which this Chapter applies.

CHAPTER X

PUBLIC TRUSTS ADMINISTRATION FUND

Public Trusts Administration Fund.

81. (1) There shall be established a fund to be called the Public Trusts Administration Fund. The Fund shall vest in the Charity Commissioner.

(2) The following sums shall be credited to the said Fund, namely :-

- (a) fees leviable under section 20;
- (b) contributions made under section 82;
- (c) the amount from the funds or the portion thereof credited under section 85;
- (d) any sum received from a private person;
- (e) any sum allotted by the State Government or any local authority; and
- (f) any other sum which may be directed to be credited by or under the provisions of this Act or the Inter-State Corporations Act, 1957.

XXXVIII of 1957.

Contribution by public trusts to Public Trusts Administration Fund.

82. (1) Every public trust shall pay to the Public Trusts Administration Fund annually such contribution on such date and in such manner as may be prescribed:

Provided that the contribution prescribed under this section shall –

- (i) in the case of a *dharmada*, be fixed at rates in proportion to the gross annual collection or receipts of the *dharmada*;
- (ii) in the case of other public trusts, be fixed at rates in proportion to the gross annual income of such public trust.

Explanation.- For the purposes of this section, the gross annual income shall include gross income from all sources in a year excluding donations given or offerings made with a specific direction that they shall form part of the corpus of the public trusts:

Provided that the interest or income accruing from such donations or offerings in the years following that in which they were given or made shall be taken into account in calculating the gross annual income.

(2) Notwithstanding anything contained in sub-section (1), on and after the commencement of this Act, every trustee of a public trust liable to pay contribution, shall, while filing a copy of balance sheet and income and expenditure account under sub-section (2) of section 36, pay in advance the whole amount of the annual contribution of the public trust computed at the prescribed rate according to specified percentage of the gross annual income or of the gross annual collection or receipt, as the case may be, as shown in the balance sheet and income and expenditure account, in such manner, and subject to such adjustments to be made after the contribution payable is assessed as may be prescribed.

(3) Notwithstanding anything in the foregoing provisions, the State Government may exempt any public trust or class of public trusts from the whole or any part of the contribution payable under that sub-section in the manner and subject to such conditions, if any, as may be prescribed.

83. (1) If the trustee of a public trust or the person charging or collecting *dharmada* fails to pay the contribution under section 82, he shall be liable to penalties provided in section 86.

Penalties as
recovery of
contribution.

(2) The Charity Commissioner may also make an order directing the bank in which or any person with whom any moneys belonging to the public trust are deposited to pay the contribution from such moneys as may be standing to the credit of the public trust or may be in the hands of such person or may from time to time be recovered from or on behalf of the public trust by way of deposit by such bank or person and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the public trust in respect of any sum or sums so paid by it or him out of the moneys belonging to the public trust so deposited with the bank or person.

(3) Any bank or person who has been ordered under sub-section (2) to make the payment may appeal to the State Government and the State Government may, after making such inquiry as it thinks fit, confirm, modify or cancel such order.

84. The Public Trusts Administration Fund shall, subject to the provisions of this Act and subject to the general or special order of the State Government, be applicable to the payment of charges for expenses incidental to the regulation of public trusts and generally for carrying into effect the provisions of this Act.

Application of
Public Trusts
Administration
Fund.

85. The custody and investment of the moneys to be credited to the Public Trusts Administration Fund and the disbursement and payment therefrom shall be regulated and made in the prescribed manner.

Custody and
investment of
money.

CHAPTER XI

OFFENCES AND PENALTIES

Penalty. 86. Whoever contravenes any provision of any of the sections mentioned in the first column of the following Table shall, on conviction, for each such offence be punished with fine as shown in the third column of the said Table.

Explanation.- The entries in the second column of the said Table headed 'Subject' are not intended as the definitions of offences described in the sections mentioned in the first column or even as abstracts of those sections, but are inserted merely as references to the subject of the sections, the numbers of which are given in the first column: -

TABLE

Section	Subject	Fine which may be imposed.
(1)	(2)	(3)
		Rs.
Section 20, sub-sections (2) and (5)	Duty of trustee to make an application to the Deputy or Assistant Charity Commissioner for registration of public trust within time.	10,000
Section 20, sub-section (9)	Duty of trustee to send Memorandum of immovable property to certain officers and authorities within time.	2,000
Section 24	Failure to report a change.	10,000
Section 30	Duty of an executor to apply for the registration of a public trust within the time provided for.	10,000
Section 34	Duty to keep regular accounts.	10,000
Section 37	Failure or omission to invest money in public securities.	10,000
Section 83	Failure to pay contribution by a trustee or by a person charging or collecting <i>dharmada</i> .	10,000

87. Any contravention of any of the provisions of this Act or the rules by a trustee or any other person connected with the affairs of the trust or failure to comply with the directions of the Charity Commissioner shall be a cognizable offence and such person shall, on conviction by the competent court be punished with imprisonment for three years. **Offences.**

CHAPTER XII

AMALGAMATION, TRANSFER OR DIVISION OF TRUSTS

88. (1) Subject to the provisions of the rules and the previous sanction of the Charity Commissioner, a trust may by resolution passed by two-thirds majority of the trustees present and voting at a special meeting of the trust held for the purpose, decide- **Amalgamation, transfer or division of trusts.**

- (a) to amalgamate with another trust;
- (b) to transfer its assets and liabilities, in whole or in part, to any other trust;
- (c) to divide itself into two or more trusts; or
- (d) to change its objects.

(2) Where the amalgamation, transfer or division referred to in sub-section (1) involves a transfer of the liabilities of society to any other trust, the Charity Commissioner shall not sanction the resolution of the trust unless he is satisfied that such amalgamation, transfer or division is in the better interest of such trust.

89. (1) Where the Charity Commissioner is satisfied that it is essential in the public interest or for the purpose of securing proper management of any trust that two or more trusts should be amalgamated or that any trusts should be re-organised, then notwithstanding anything contained in section 88 but subject to the provisions of this section, the Charity Commissioner may, after consulting such trusts, may by order published in the *Official Gazette*, provide for the amalgamation of these trusts into a single trust or, as the case may be, for the re-organisation of that trust, with such constitution, property rights, interests and authorities, and such liabilities, duties and obligations as may be specified in the order. Such order may also provide for the constitution of the Committee of Management or any other committees of such amalgamated, or re-organised trust and the persons who shall be, or continue to be the officers of such trust and the period after which such committee or committees may be re-constituted. **Power to direct amalgamation and re-organisaion of trusts in public interest.**

(2) No order shall be made under this section unless,-

- (a) a copy of the draft of the proposed order has been sent to the trust or each of the trusts concerned;
- (b) the Charity Commissioner has considered suggestions and objections if any received either from the trust or from any member or class of members thereof within such period (not being less than one month from the date on which the copy of the order as aforesaid was received by the trust) as the Charity Commissioner may fix in that behalf,

and has, if necessary, modified the same in the light of such suggestions and objections.

(3) The order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Charity Commissioner, be necessary to give effect to the amalgamation or re-organisation.

90. Where two or more trusts have been amalgamated, or a trust has been divided, the registration of such societies or society, as the case may be, shall be cancelled on the date of registration of the new trust or trusts so formed.

Cancellation of registration of amalgamated or divided trusts.

91. (1) The Charity Commissioner shall, make an order cancelling the registration of a trust if it transfers the whole of its assets and liabilities to another trust or amalgamates with another trust, or divides itself into two or more trusts, or if its affairs are wound up or it has not commenced charitable activities within a reasonable time of its registration or has ceased to function.

(2) An order made under sub-section (1) shall be published in the *Official Gazette*.

(3) The trust shall, from the date of such order of cancellation, be deemed to be dissolved and shall cease to exist as a public trust.

Cancellation of registration.

92. When a trust-

Direction by Charity Commissioner.

- (i) makes persistent default in submitting its accounts continuously for a period of ten years;
- (ii) fails to make contribution to the Public Trust Administration Fund for a period of ten years;
- (iii) persistently fails to comply with the directions of the Charity Commissioner;
- (iv) fails to carry out the purposes for which it was created;
- (v) fails to put the immovable properties to the use of the purposes of the trust for a period of ten years,

the Charity Commissioner may, after affording an opportunity of hearing to the trust, direct that -

- (a) such trust shall be merged with the trust having similar religious or charitable purposes;
- (b) such trust properties shall be forfeited to the State Government and shall, subject to the directions of the State Government, be utilized for the purposes for which such trust was created; or
- (c) such trust shall be de-registered.

93. (1) When the State Government finds on application of any interested party or on recommendation by the Charity Commissioner that a trust -

Direction by
State
Government
in case of
default .

- (a) does not comply with the directions of the Charity Commissioner;
- (b) makes persistent default in observing the provisions of this Act;
- (c) carries on the activities other than the purposes for which it was created; or
- (d) fails to put the immovable properties to the use of the purposes of the trust for a period of ten years,

the State Government may, after affording an opportunity of hearing to the trust, appoint, by notification published in the *Official Gazette*, any Gazetted Officer as the administrator of the said trust for a period of one year by publishing a notification in the *Official Gazette*.

(2) The administrator so appointed shall, subject to the control of the Charity Commissioner and to such instructions as he may from time to time give, have powers to exercise all or any of the functions of the trust, and take all such actions as may be required in the Interest of the trust.

(3) All acts done or purported to be done by the administrator during the period when the affairs of the trust are carried on by such administrator shall be binding on the trust.

CHAPTER XIII

FILING OF RETURNS

94. (1) Every public trust shall file following returns at the end of every quarter commencing from the month of April of the year with the Deputy or Assistant Charity Commissioner in charge of the Public Trusts Registration Office where such trust is registered, namely:-

Filing of
returns by
public trusts .

- (i) the statement showing gross income in the quarter from all sources and requirement of payment of contribution to the Public Trusts Administration Fund thereon;
- (ii) the statement showing gross income in the quarter from sources outside the State of Gujarat;
- (iii) the statement showing gross income in the quarter from sources outside India;
- (iv) the statement showing particulars of change that occurred during the quarter in any of the entries of such public trust in the register of public trusts maintained under section 23 alongwith the particulars of report made therefor to and decision of the Deputy or Assistant Charity Commissioner in charge of the Public Trusts Registration Office on such report;
- (v) the statement showing particulars of any sale, mortgage, exchange, or gift or alienation in any manner of immovable property or any lease of immovable property for a period exceeding three years made by the trust alongwith the particulars of prior permissions for alienation granted by the Charity Commissioner therefor.

(2) The Deputy or Assistant Charity Commissioner shall forward the consolidated statement of the reports made by public trusts registered at the Public Trusts Registration Office under sub-section (1) to the Charity Commissioner alongwith his recommendations.

Furnishing
returns by
Charity
Commissioner.

95. The Charity Commissioner shall furnish the following returns to the State Government every quarter commencing from month of April of the year, namely:-

- (i) the return showing details of contributions receivable by the Public Trusts Registration Offices under its administrative control during the quarter;
- (ii) the return showing details of actual contributions received by such Public Trusts Registration Offices during the quarter;
- (iii) the return showing break up details of change reports decided by the Deputy or Assistant Charity Commissioners during the quarter, the details of change reports pending at the end of the quarter and the reasons for such pendency;
- (iv) the return showing particulars of the prior permissions sought by the public trusts in the quarter for alienation of trust properties and the details of the decisions taken thereon during the quarter along with the details of the cases pending for granting prior permissions for alienation of trust properties and the reasons therefor;
- (v) the return showing the breach of, contravention of or non-observance of the provisions of this Act by the public trusts in the quarter and his recommendations thereon;
- (vi) the return showing the details of the schemes settled for the public trusts;
- (vii) the return showing the number of applications received for seeking permissions to file suits and the number of applications decided during the quarter.

(2) The Charity Commissioner may also furnish all or any of the returns mentioned in sub-section (1) as and when ~~he is of the opinion~~ that circumstances exist for furnishing such return to the State Government.

(3) The State Government shall consider the returns furnished by the Charity Commissioner under sub-section (1) or (2) and may issue necessary directions to the Charity Commissioner or take necessary corrective measures for effective implementation of this Act.

CHAPTER XIV

APPEALS

96. (1) The State Government may, by notification in the *Official Gazette*, constitute one or more Gujarat Public Trusts Tribunal or Tribunals.

Constitution of Gujarat Public Trusts Tribunal and appeals to Gujarat Public Trusts Tribunal.

(2) The State Government shall appoint a person who has been or is qualified to be a District Judge (Super Time Scale) to be the President of the Tribunal and also appoint such other persons who had been or who are qualified to be appointed as Senior Civil Judges as Members of the Tribunal.

(3) The tribunal shall follow such procedure as may be prescribed.

V of 1908.

(4) The tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely:-

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material objects;
- (c) issuing commissions for the examination of witnesses ;
- (d) such other matters as may be prescribed.

XLV of 1860.

(5) Every inquiry or investigation by the tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

XXXVI of 1963.

(6) The tribunal shall be deemed to be a court for the purpose of section 5 of the Limitation Act, 1963.

(7) The decision of the tribunal shall be final, and no suit shall lie in any civil court in respect of the matters decided by it.

97. (1) An appeal against the findings or order of the Charity Commissioner, Joint Charity Commissioner, Deputy or, as the case may be, the Assistant Charity Commissioner may be filed to the tribunal in the following cases, namely:-

Appeal against findings of Charity Commissioner, and other officers.

- (a) the findings and order, if any, under section 22;
- (b) the findings under section 24;
- (c) the determination under section 27;
- (d) the decision of the Charity Commissioner under section 38;
- (e) the order framing scheme under section 54;
- (f) an order confirming or amending the record under section 108.

(2) No appeal shall be maintainable after the expiration of thirty days from the recording of the findings, or, as the case may be, the passing of the order.

(3) The tribunal shall also discharge the following functions, namely:-

- (a) deciding question in relation to trust under sub-section (2) of section 27;

- (b) appointment of new trustee under section 51;
- (c) giving direction under clause (iii) of section 52;
- (d) giving consent under section 53;
- (e) deciding application of trustee under section 57;
- (f) deciding application of trustee under section 59.

(4) No party to such appeal shall be entitled to produce additional evidence, whether oral or documentary, before the tribunal unless the Deputy or Assistant Charity Commissioner or the Charity Commissioner has refused to admit evidence which ought to have been admitted or the tribunal requires any document to be produced or any witness to be examined to enable it to pronounce judgment or for any other substantial cause the tribunal thinks it necessary to allow such additional evidence :

Provided that whenever additional evidence is allowed to be produced by the tribunal, the tribunal shall record the reason for its admission.

(5) The tribunal may, after hearing the appellant or any person appearing on his behalf for reasons to be recorded in writing either annul, reverse, modify or confirm the findings of the order appealed against or he may direct the Charity Commissioner, Joint Charity Commissioner, Deputy or, as the case may be, the Assistant Charity Commissioner to make further inquiry or to take such additional evidence as he may think necessary.

Revision by
State
Government.

98. The State Government may, on its own motion, call for and examine the records of any order passed or proceeding taken by the Charity Commissioner, Joint Charity Commissioner, Deputy Charity Commissioner or, as the case may be, the Assistant Charity Commissioner under the provisions of this Act and against which no appeal has been preferred under any of the provisions of the Act, for the purpose of satisfying itself as to the legality or propriety of such order or as to the regularity of such procedure and pass such order with respect thereto as it may think fit:

Provided that the State Government shall not record or pass any orders without giving the party affected thereby an opportunity of being heard.

Explanation: The Charity Commissioner, Joint Charity Commissioner, Deputy or, as the case may be, the Assistant Charity Commissioner are not parties affected under the proviso.

Review by
tribunal.

99. (1) When the State Government has, on its own motion or otherwise, reason to believe that an appeal decided by the Tribunal was filed -

- (i) by a person not affected by the decision of the Charity Commissioner, Joint Charity Commissioner, Deputy Charity Commissioner or as the case may be, the Assistant Charity Commissioner; or
- (ii) on frivolous or flimsy grounds to defeat the power of the State Government under section 98,

it may make an application to the tribunal for review of the order passed by the tribunal.

(2) On an application filed by the State Government, the tribunal shall, after hearing the parties pass such orders as it may deem fit.

- 100.** In holding inquiries under this Act, the officer shall have the same powers as are vested in Courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit :-
- Officers holding inquiries to have powers of civil court.**
- (a) proof of facts by affidavits,
 - (b) summoning and enforcing the attendance of any person and examining him on oath,
 - (c) ordering discovery and inspection, and compelling the production of documents,
 - (d) issuing of commissions.
- 101.** In any proceedings under this Act, any person having interest in the public trust may be joined as a party to such proceedings on an application made by such person on such terms and conditions as the officer holding the inquiry may order.
- Power of Inquiry Officer to join persons as party of proceedings**
- 102.** All inquiries and appeals under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.
- Inquiries to be judicial inquiries.**
- 103.** In computing the period of appeal under this Act, the provisions of sections 4, 5, 12, and 14 of the Limitation Act, 1963 shall apply to the filing of such appeals.
- Limitation.**
- 104.** Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure, 1908 shall apply to all proceedings before the tribunal under this Act.
- Civil Procedure Code to apply to proceedings before tribunal under this Act.**
- 105.** All sums payable under sections 20, 22, 45, 107, 110 or 112 or under any rule, if not paid, shall be recoverable as an arrears of land revenue.
- Recovery of sums.**

CHAPTER XV

MISCELLANEOUS

- 106.** The Charity Commissioner, Joint Charity Commissioners, the Deputy and Assistant Charity Commissioners, the Director and Assistant Director of Accounts, Inspectors and other subordinate officers appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.
- Charity Commissioner and other officers to be public servants.**

- Recovery of costs and expenses incurred on legal proceedings by Charity Commissioner, etc.** 107. All costs, charges and expenses incurred by the Charity Commissioner, the Joint Charity Commissioner, the Deputy or Assistant Charity Commissioners as a party to, or in connection with, any legal proceeding in respect of any public trust shall notwithstanding anything contained in section 109, be payable out of the property or funds of the public trust, except in cases where the liability to pay the same has been laid on any party or other person personally and the right to reimbursement under this section has been negated in express terms.
- Power to finalise reconstructed record.** 108. (1) Whenever any record kept in any Public Trusts Registration Office is damaged or destroyed due to any cause whatsoever and is reconstructed, the Deputy or Assistant Charity Commissioner may, by notice in the prescribed form published in the *Official Gazette*, and also in the newspapers with wide circulation in the region concerned, announce the fact of the reconstruction of the record, and call upon all persons having interest in the public trust which are entered in such reconstructed record to show cause in writing within a period of thirty days from the publication of the notice in the *Official Gazette*, why such record should not be treated as final and conclusive. A copy of such notice may be sent also to the trustees of such public trusts.
- (2) On the expiry of the period of thirty days aforesaid, the Deputy or Assistant Charity Commissioner or the Joint Charity Commissioner shall, after hearing the trustees and persons having interest, if any, after duly considering the objections and documents produced, if any, and if necessary, after making inquiry, record his findings with the reasons therefor, and either confirm or amend the record including any entries therein accordingly. The record so confirmed or amended shall, subject to the provisions of this Act, be final and conclusive, as if such record was made or maintained under this Act.
- Costs of proceedings before Courts including High Court.** 109. The costs, charges and expenses of and incidental to any suit, appeal or application to any court including the High Court under this Act shall be in the discretion of the Court, which may, subject to the provisions of section 107, direct the whole or any part of such costs, charges and expenses to be met from the property or funds of the public trust concerned or to be borne and paid in such manner and by such persons as it thinks fit.
- Costs of proceedings before Charity Commissioner, etc.** 110. The costs, charges and expenses of and incidental to any appeal, application or other proceeding before the Charity Commissioner, the Joint Charity Commissioner, the Deputy or Assistant Charity Commissioner shall be in his discretion and he shall have full power to determine by whom or out of what property or funds of the public trust and to what extent such costs, charges and expenses are to be paid.
- Cancellation of registration of public trust.** 111. The Deputy or Assistant Charity Commissioner, as the case may be, may after due inquiry and after recording reasons in writing in that behalf, cancel the registration of any trust, -
- (i) when the whereabouts of the trustees and of the properties of the trust are not known; or
 - (ii) where one trust is merged or amalgamated into another trust and the merged or amalgamated trust loses its entity under section 89.

112. (1) If in an inquiry under the provisions of this Act, the Charity Commissioner, the Joint Charity Commissioner or the Deputy or Assistant Charity Commissioner is of the opinion that the application on which such inquiry was commenced was either frivolous or vexatious, the Charity Commissioner, the Joint Charity Commissioner or the Deputy or Assistant Charity Commissioner, as the case may be, at the request of person against whom such application was made (hereinafter referred to as 'the opponent') call upon the person making the application (hereinafter referred to as 'applicant') to show cause why the applicant should not pay compensation to the opponent and if the applicant is not present, direct the issue of summons to him to appear and show cause as aforesaid.

Compensatory costs for frivolous or vexatious proceedings before Charity Commissioner, etc.

(2) If the Charity Commissioner, the Joint Charity Commissioner or the Deputy or Assistant Charity Commissioner, as the case may be, is satisfied that the application was either frivolous or vexatious, he may, after recording reasons, order that compensation of such amount not exceeding five thousand rupees as he may determine be paid by the applicant to the opponent.

Guj. 4 of 2004.

113. Notwithstanding anything contained in the Gujarat Court-Fees Act, 2004, the documents described in columns 1 and 2 of Schedule appended hereto shall bear a court-fee stamp of the value specified in column 3 thereof.

Court fees to be paid as prescribed by Schedule.

114. Save as expressly provided in this Act, no civil court shall have jurisdiction to decide or deal with any question which is by or under this Act to be decided or dealt with by any officer under this Act, and in respect of which the decision or order of such officer has been made final and conclusive.

Bar of Jurisdiction.

115. No suits, prosecutions or other proceeding shall be instituted against the State Government or any officer in respect of anything in good faith done or purporting to be done under this Act.

Indemnity.

116. No Court inferior to that of a Metropolitan Magistrate or a Magistrate of the First Class shall try an offence punishable under this Act.

Trial of offences under this Act.

117. No prosecution for an offence punishable under this Act shall be instituted without the previous sanction of the Charity Commissioner.

Previous sanction of Charity Commissioner necessary for prosecution.

118. (1) A legal practitioner shall not be entitled to appear before the Charity Commissioner, Joint Charity Commissioner, Deputy Charity Commissioner or, as the case may be, the Assistant Charity Commissioner on behalf of any public trust in any proceeding under this Act, save with the previous sanction of the Charity Commissioner.

Previous sanction of Charity Commissioner necessary for appearance.

(2) No officer or servant appointed under the provisions of this Act shall, after ceasing to be such officer or servant –

- (i) associate himself in any manner whatsoever with any public trust;
- (ii) seek employment or office under any public trust;
- (iii) represent any public trust in any proceeding before the Charity Commissioner, Joint Charity Commissioner, Deputy Charity Commissioner or, as the case may be, the Assistant Charity Commissioner.

Power to
make rules.

119. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

- (a) the qualifications of the Director and Assistant Directors of Accounts, Inspectors and the officers appointed under section 7;
- (b) the powers, duties and functions of the officers other than the Charity Commissioner, Deputy and Assistant Charity Commissioner appointed under this Act in addition to those provided for in this Act;
- (c) the conditions of service of all officers specified under section 9;
- (d) the limits of regions and sub-regions to be prescribed under section 16;
- (e) the books, indices and registers to be kept and maintained in a Public Trusts Registration Office, and the particulars to be entered in such books, indices and registers under section 19;
- (f) the form in which an application for the registration of a public trust is to be made and the fees to be paid for the same, the other particulars to be entered therein and the manner in which an application for such registration to be signed and verified and the value and kind of trust property in respect of which it shall not be necessary to give particulars and the form of Memorandum and the manner in which such Memorandum to be signed and verified under section 20;
- (g) the manner in which an inquiry has to be made by the Deputy or Assistant Charity Commissioner under sections 21 and 44;
- (h) the form in which the trustee has to make a report regarding the change under sub-sections (1) and (2) of section 24, and the manner of holding an inquiry under sub-section (3) of the said section;
- (i) the book in which the Deputy or Assistant Charity Commissioner shall make an entry under section 25;
- (j) the form of memorandum to be sent by the Deputy or Assistant Charity Commissioner under section 29;
- (k) the amount of annual income of a public trust exceeding which it is liable to prepare and submit budget; and the forms of such budget, under sub-section (1) section 33;

- (l) the form of account and particulars to be entered in the accounts under section 34 and the fees to be paid for special audit under section 35(4);
- (m) the manner in which the Charity Commissioner shall communicate his decision under sub-section (2) of section 38;
- (n) the form register of movable or immovable properties of public trust under sub-section (1) of section 40;
- (o) the form of register to be kept under sub-section (4) of section 47;
- (p) the manner of making an application to frame the scheme under sub-section (1) of section 54;
- (q) the form of account to be submitted under sub-section (2), and the manner of passing order under sub-section (3) of section 56;
- (r) the time within which trustees may apply to the tribunal for directions under sub-section (1) of section 57;
- (s) the conditions and restrictions subject to which the committee shall deal with the property under sub-section (2) of section 63;
- (t) the honorarium or fees and allowances to be paid to the Chairman, treasurer and members of a committee under sub-section (2) of section 67 and the manner in which such honorarium or fees and allowances shall be paid;
- (u) the interval at which a committee shall meet and the procedure it shall follow under section 68;
- (v) the terms and conditions as to service on which secretary and officers of a committee may be appointed under section 71;
- (w) the fund from which the sums payable to Secretary, officer and employee of committee under clause (c) of sub-section (2) of section 71;
- (x) the rules to exempt any sum of endowment or class of endowments under sub-section (2)(b) of section 76 and the manner in which the custody and investment of and the disbursement and payment from the Management Fund and the credit of accounts of the Fund shall be regulated under section 76;
- (y) the date on which and the manner in which every public trust shall pay the annual contribution under section 82 and the deductions to be allowed under the Explanation to sub-section (1) of that section, and the manner of obtaining the decision of State Government on whether or not, a trust falls in any of the exempted class of public trusts under sub-section (3) of that section;
- (z) the manner in which the custody and investment of the money to be credited to the Public Trusts Administration Fund and the disbursement and payment therefrom under section 85;
- (za) the procedure to be followed by the tribunal under sub-section (3) and the other powers of the tribunal under clause (d) of sub-section (4) of section 96;
- (zb) the form of notice in respect of reconstructed record under sub-section (1) of section 108;
- (zc) any other matters which are to be or may be prescribed under this Act.

(3) All rules made under this section shall be subject to the condition of previous publication :

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(4) All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made, and shall be subject to such rescission or modifications as the State Legislature may make during the session in which they are so laid or the session immediately following. Any rescission or modifications so made shall be published in the *Official Gazette*, and shall thereupon take effect on and from the date of their publication.\

Repeal and
savings.

120. (1) The Bombay Public Trusts Act, 1950 (hereinafter referred to as "the said Act") as applicable to the State of Gujarat is hereby repealed.

Bom. XXIV of
1950.

(2) Save as otherwise provided in this section, such repeal shall not in any way affect -

- (a) the previous operation of the said Act or anything duly done thereunder;
- (b) any right, privilege, obligation or liability already acquired, accrued and incurred under the said Act;
- (c) any penalty or punishment incurred in respect of any offence committed under the said Act;
- (d) any inquiry, legal proceedings or remedy in respect of any such right, title, interest, privilege, obligation, liability, penalty or punishment as aforesaid and such inquiry, legal proceedings or remedy may be instituted, continued or enforced and any such penalty and punishment may be imposed as if this Act had not been passed :

Provided that anything done or any action taken under the said Act shall, in so far as it is not inconsistent with the provisions of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

(3) All public trusts registered or deemed to be registered under the said Act, the registration on which was in force immediately before the commencement of this Act, shall on such commencement be deemed to be registered under this Act.

(4) All proceedings pending before the Gujarat Revenue Tribunal under the said Act on the date of commencement of this Act shall stand transferred to the tribunal having jurisdiction.

Power to
remove
difficulty.

121. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order published in the *Official Gazette*, do any thing not inconsistent with the provisions of this Act which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

SCHEDULE
(See section 113)

Section	Description of Documents	Value Rs.
(1)	(2)	(3)
20 (2)	Application for the registration of a Public Trusts.	50/-
24 (1)	Reports of any change or proposed change in any of the entries recorded in the register kept under section 19.	10/-
27 (1)	Application of any person having interest in a Public trust to the Charity Commissioner to determine which of the Deputy or Assistant Charity Commissioners shall proceed with an inquiry under section 20 or 24 in regard to any public trusts.	20/-
30	Application by the executor of a will for the registration of a public trust created by such will	50/-
51	Application to the tribunal by the Charity Commissioner or any person having interest in a public trust or any trustee of public trust for the appointment of a new trustee or for the vesting of property or for both	100/-
53	Application to the Charity Commissioner for consent to file a suit of the nature specified in section 52.	100/-
54	Application to the Charity Commissioner for framing, amalgamating or modifying scheme.	100/-
57	Application to the tribunal for direction.	100/-
59	Application for opinion, advice or direction of the tribunal.	100/-
83	Appeal to the State Government against the order of the Charity Commissioner for the payment of contribution by bank or person from the money standing to the credit of the public trust with such bank or person.	100/-
97	Appeal to the tribunal against the finding of Charity Commissioner, Joint Charity Commissioner, Deputy or Assistant Charity Commissioner.	100/-
	<i>Mukhtarnama</i> or <i>Wakalatnama</i> when presented for the conduct of any inquiry, appeal or other proceeding to the Charity Commissioner, or the Deputy or Assistant Charity Commissioner.	3/-
	Application to the Charity Commissioner or the Deputy or Assistant Charity Commissioner for copies under the Act.	10/-
	Any other application or petition presented to the Charity Commissioner or the Deputy or Assistant Charity Commissioner.	2/-

STATEMENT OF OBJECTS AND REASONS

The Bombay Public Trusts Act, 1950 was adapted by the State of Gujarat on its formation on 1st May, 1960. It has been the policy of the State Government to convert the existing Bombay Acts into the Gujarat Acts and with a view to carrying out the intention of the Government and also to regulate and to make the working of the Charity Organization and the administration of the public trusts more effective and to remove certain infirmities, it is considered necessary to enact the law of its own relating to the public trusts. This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain the important provisions of the Bill: -

Clause 1.- This clause provides for short title, extent and commencement.

Clause 2.- This clause defines certain terms used in the Bill.

Clauses 3, 4 and 5.- These clauses provide for the appointment of the Charity Commissioner and Joint Charity Commissioner and qualifications for appointment to such posts..

Clause 6.- This clause provides for the appointment of the Deputy Charity Commissioner and Assistant Charity Commissioner and qualifications for such appointment.

Clause 7.- This clause provides for the appointment of the Director of Accounts, Assistant Director of Accounts, Inspectors and other subordinate officers in the Charity organisation and qualifications for such appointment.

Clause 8 and 9.- These clauses provide that the Charity Commissioner and other officers of the Charity organisation will be the employees of the State Government and also provides for payment of pay, allowances and pension of the Charity Commissioner and other officers and employees of the Charity organisation on reimbursement basis from the Public Trusts Administration Fund.

Clause 10.- This clause empowers the State Government to delegate its powers and functions under the Act to Charity Commissioner and other officers.

Clause 11.- This clause describes the charitable purposes.

Clauses 12, 13, 14 and 15.- These clauses provide that public trust will not be void on the grounds of uncertainty or for non-charitable or non-religious purpose, or on the ground of absence of obligation, or on the ground of failure to perform specific object.

Clauses 16 and 17.- These clauses provide for formation of regions and sub-regions by the State Government and for setting up of a Public Trust Registration Office for region and sub-region.

Clause 18.- This clause provides for the appointment of the Deputy Charity Commissioner or Assistant Charity Commissioner by the State

Government to be in-charge of one or more Public Trust Registration offices.

Clause 19.- This clause provides for maintaining books, indices and other registers by the Deputy or Assistant Charity Commissioner.

Clauses 20 and 21.- These clauses provide for the registration of public trust and inquiry to be carried out for the purpose of grant of registration of the public trust.

Clause 22.- This clause provides for making an order on findings of the Deputy or Assistant Charity Commissioner and for the payment of fee for registration of the public trust.

Clause 23.- This clause provides for entries to be made in the Register kept under clause 19 in accordance with the findings recorded by the Deputy or Assistant Charity Commissioner under clause 22 or in appeal final decision of the competent authority.

Clause 24.- This clause provides for change in the entries recorded in the Register maintained under clause 19, and also to hold inquiry for verification of correctness of the entries made in the register.

Clause 25.- This clause provides for procedure to be adopted by the Deputy or Assistant Charity Commissioner where the trust property is situated in several regions or sub-regions.

Clause 26.- This clause bars the Deputy or Assistant Charity Commissioner to proceed with an inquiry under clauses 21 and 24 with regard to any public trust which has already been registered in any other region or sub-region.

Clause 27.- This clause provides that inquiry under sections 21 and 24 regarding public trust shall not be held by more than one Deputy or Assistant Charity Commissioner.

Clause 28.- This clause provides for entries to be made or amended in the register kept under section 19 in accordance with the decision of the competent court or the Tribunal.

Clause 29.- This clause provides that copy of entries relating to immovable property shall be sent to the Sub-Registrar, the revenue and the local authorities.

Clause 30.- This clause provides for registration of a public trust which is created by a will.

Clause 31.- This clause provides that it shall be deemed to have notice of the particulars of immovable properties entered into Register kept under section 19 where a person acquires the immovable property belonging to a public trust.

Clause 32.- This clause bars the right to file a suit on behalf of the public trust, which is not registered. It provides that the Charity Commissioner shall be the necessary party in any suit or proceeding relating to the public trust before any court, Tribunal or other authority. Any suit or

proceeding decided without joining the Charity Commissioner as party shall be null and void.

Clauses 33, 34 and 35.- These clauses provide for preparation of budget by certain public trusts; and also provide for maintenance of accounts by the public trusts and balancing and auditing of accounts thereof.

Clause 36.- This clause casts duty on the Auditor to prepare balance- sheet, income and expenditure account and to report irregular, illegal or improper expenditure or failing to recover moneys belonging to the public trust to the Charity Commissioner.

Clause 37.- This clause provides for investment of public trust moneys.

Clause 38.- This clause provides for alienation of immovable property of the public trust with the prior permission of the Charity Commissioner.

Clause 39.- This clause provides for powers and duties of the trustees with respect to administration and application of the fund for the purposes and objects of the public trust.

Clause 40.- This clause provides for the maintaining a register by the public trust of movable and immovable property.

Clause 41.- This clause provides that the Charity Commissioner and other officers shall have power to enter and inspect property belonging to the public trust and to call for or inspect proceedings of trustees and also call for return, statement, account and report which he may deem fit.

Clause 42.- This clause provides for submission of the explanation by the trustee on the report of the Auditor under section 36 or of inspection under section 41 with respect to allegation of negligence, breach of trust, misappropriation or misconduct of trustees.

Clause 43.- This clause provides that the Deputy or Assistant Charity Commissioner shall send the report referred to in clause 42 to the Charity Commissioner.

Clause 44.- This clause provides for the action to be taken by the Charity Commissioner after considering the report made to him under clause 43.

Clause 45.- This clause empowers the Charity Commissioner to make an order or surcharge for the loss caused to the public trust by any person and also provides that such an order shall be final and shall be deemed to be a decree of the Court.

Clause 46.- This clause empowers the Charity Commissioner to issue directions to the trustee and other persons.

Clause 47.- This clause empowers the Charity Commissioner to issue directions subject to the general or special order of the State Government to provide for essential medical facilities to the weaker sections and indigent persons in the hospital run by the public trust.

Clause 48.- This clause empowers the Charity Commissioner or Deputy or Assistant Charity Commissioner to institute an inquiry on receipt of a complaint in writing from any persons having interest in the public trust or on receipt of direction from the State Government.

- Clause 49.-** This clause provides that the Charity Commissioner may sue or be sued in his name and be competent to acquire, hold and dispose of property, etc.
- Clause 50.-** This clause provides that the Charity Commissioner shall be the Treasurer of Charitable Endowments under the provisions of the Charitable Endowments Act, 1890.
- Clause 51.-** This clause empowers the Tribunal to appoint new trustees in certain circumstances.
- Clause 52.-** This clause provides institution of suit in the court to obtain a decree for reliefs referred to therein.
- Clause 53.-** This clause provides for obtaining the prior consent of the Charity Commissioner for institution of suit by the person having interest in the public trust.
- Clause 54.-** This clause empowers the Charity Commissioner to frame, amalgamate or modify scheme of the public trust in the interest of the proper management or administration of a public trust.
- Clause 55.-** This clause provides that a suit against an assignee for valuable consideration shall not be barred by time.
- Clause 56.-** This clause provides for the transaction made by way of 'Dharmada'.
- Clause 57.-** This clause provides that if in the opinion of the Charity Commissioner, the public trust has failed of achieve the original object, the income or any surplus balance of any public trust has not been utilized, or it is not in public interest, practicable, desirable, necessary or proper to carry out the original intention of the author of the public trust and that the property or the income of the public trust or any portion thereof should be applied to any other charitable or religious object, the directions of the Tribunal are necessary, he shall require the trustees to apply for directions to the Tribunal.
- Clause 58.-** This clause provides for Tribunal's power to hear an application made under clause 57 and to give appropriate directions.
- Clause 59.-** This clause provides that the trustee may apply for the opinion, advice or direction of the Tribunal with respect to the management or administration of trust property or income thereof and empowers the Tribunal to give its opinion, advice or directions.
- Clause 60.-** This clause prohibits the Court to proceed with the matter until the notice is given to the Charity Commissioner wherein the proceeding involves the question of public religious or charitable purpose.
- Clause 61.-** This clause provides that the provisions of Chapter IX shall apply to certain temples, mosques or endowments created for public religious or charitable purpose, which vest in the State Government.

- Clause 62.-** This clause empowers the State Government for vesting or transferring of management of certain endowments into or in a Committee.
- Clause 63.-** This clause empowers the State Government to appoint a Committee for management of the public trust transferred to it or vested in it under section 62 and provides for the power of the Committee.
- Clause 64.-** This clause provides for term of office of members of the Committee appointed under clause 63.
- Clause 65.-** This clause prescribes disqualifications for appointment of members of the Committee.
- Clause 66.-** This clause empowers the State Government to appoint a new member of the Committee in certain circumstances.
- Clause 67.-** This clause empowers the State Government to appoint the Chairman and the Treasurer of the Committee.
- Clause 68.-** This clause provides for the meeting and procedure for transaction of business of the Committee.
- Clause 69.-** This clause provides that the Committee shall have power to appoint sub-committee for general or particular purpose.
- Clause 70.-** This clause empowers the State Government to appoint the Secretary of the Committee and provides for the powers of Committee to appoint other officers and employees of the Committee.
- Clause 71.-** This clause provides for terms and conditions of the service of the Secretary and other employees of the committee.
- Clause 72.-** This clause provides for general duty, powers and functions of the Committee.
- Clause 73.-** This clause provides that no act of a committee shall be invalid on the ground of vacancy or defect.
- Clause 74.-** This clause empowers the State Government to issue directions for better management or administration of the endowment.
- Clause 75.-** This clause provides for the duties to be performed by the Committee and payment of expenses incurred for performance of such duties.
- Clause 76.-** This clause provides for creation of management fund for every managing committee and its utilisation.
- Clause 77.-** This clause empowers the State Government to supersede a committee for its inability to perform or persistent default in performing duties.
- Clause 78.-** This clause provides for removal of members of the committee and appointment of Administrator.
- Clause 79.-** This clause empowers the Committee to make regulations for carrying out its business, association of a person who is not member of Committee, terms and conditions relating to service of employees of the Committee, etc.

- Clause 80.-** This clause provides for non-application of certain provisions of this Bill to the endowments to which chapter IX applies.
- Clause 81.-** This clause provides for establishment of the Public Trusts Administration Fund.
- Clause 82.-** This clause provides for contribution to be paid by a public trust in the Public Trusts Administration Fund.
- Clause 83.-** This clause provides for penalty for failure to pay the contribution under section 82 and trustees shall be liable to penalties provided in clause 86.
- Clause 84.-** This clause provides for an application for payment of charges incidental to regulation of public trusts from the Public Trusts Administration Fund and for carrying out the provisions of this Bill.
- Clause 85.-** This clause provides for custody and investment of money of the Public Trusts Administration Fund.
- Clause 86.-** This clause prescribes penalty for the offences under sections 20, 24, 30, 34, 37 and 83.
- Clause 87.-** This clause prescribes penalty for the rest of the offences for contravention of the provisions of Act and rules made thereunder.
- Clause 88.-** This clause provides for amalgamation, transfer or division of public trusts.
- Clause 89.-** This clause provides for power to direct amalgamation and re-organization of trusts in public interest.
- Clause 90.-** This clause provides for cancellation of registration of amalgamated or divided trusts.
- Clause 91.-** This clause provides for cancellation of registration of trust.
- Clause 92.-** This clause provides for power of Charity Commissioner to give directions to trusts.
- Clause 93.-** This clause provides for power of the State Government to give directions in case of default.
- Clause 94.-** This clause provides for filing of quarterly returns by public trusts to the Deputy or the Assistant Charity Commissioner.
- Clause 95.-** This clause provides for furnishing of returns by Charity Commissioner.
- Clause 96.-** This clause provides for constitution of one or more Gujarat Public Trusts Tribunal or Tribunals and its powers and also provides the procedure of the Tribunal.
- Clause 97.-** This clause provides for appeals against findings of Charity Commissioner and other officers.
- Clause 98.-** This clause provides for power of revision by State Government.
- Clause 99.-** This clause provides for power of review by Tribunal.

- Clause 100.-** This clause provides that officers holding inquiries shall have the same powers as are vested in civil court.
- Clause 101.-** This clause provides for joining persons as party to proceedings.
- Clause 102.-** This clause provides that all inquiries and appeals under this Bill shall be deemed to be judicial proceeding for purpose of sections 193, 219 and 228 of the Indian Penal Code, 1860.
- Clause 103.-** This clause provides for application of provisions of Limitation Act, 1963 in computing period of limitation.
- Clause 104.-** This clause provides that the provisions of the Code of Civil Procedure shall apply to proceeding before the Tribunal under this Bill.
- Clause 105.-** This clause provides that all sums payable under sections 20, 22, 45, 107, 110 and 112 shall be recoverable as an arrears of land revenue.
- Clause 106.-** This clause provides that the Charity Commissioner, Deputy and Assistant Charity Commissioner and other subordinate officers appointed under the Act shall be public servants.
- Clause 107.-** This clause provides that the costs or expenses incurred on legal proceeding in respect of any public trust shall be recoverable by the Charity Commissioner, Deputy and Assistant Charity Commissioner from the public trusts.
- Clause 108.-** This clause provides for finalisation of re-constructed record.
- Clauses 109 and 110.-** These clauses provide for payment of costs of charges and expenses to any suit, appeal or proceedings to any Court including High Court and before the Charity Commissioner, Deputy or Assistant Charity Commissioner.
- Clause 111.-** This clause provides for cancellation of registration of a public trust by the Deputy or Assistant Charity Commissioner.
- Clause 112.-** This clause provides for payment of compensatory costs by the applicant to the opponent for initiating frivolous and vexatious proceedings before the Charity Commissioner, Deputy or Assistant Charity Commissioner.
- Clause 113.-** This clause provides that the documents described shall bear the court-fee stamp of the value as prescribed in the Schedule.
- Clause 114.-** This clause bars jurisdiction of the Civil Court wherein any question is to be decided or dealt with by the officer under the Act.
- Clause 115.-** This clause provides usual indemnity for acts done in good faith.
- Clause 116.-** This clause provides that no court inferior to the court of Metropolitan Magistrate or Judicial Magistrate First Class shall try offences punishable under the Act.
- Clause 117.-** This clause provides that the previous sanction of the Charity Commissioner is necessary for institution of prosecution.
- Clause 118.-** This clause provides for previous sanction of Charity Commissioner shall be necessary for appearance of legal practitioner.

Clause 119.- This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for matters specified in sub-clause (2).

Clause 120.- This clause provides for the repeal of the Bombay Public Trusts Act, 1950 in its application to the State of Gujarat and effect of repeal and saving.

Clause 121.- This clause empowers the State Government to remove difficulties arising within three years from the commencement of the Act.

DILEEP SANGHANI,

FINANCIAL MEMORANDUM

The Gujarat Public Trusts Bill, 2011 seeks to replace and repeal the Bombay Public Trusts Act, 1950. The administrative set-up already exists for carrying into effect the provisions of the existing Act and the same set up shall continue for the implementation of the provisions of the present Bill, if enacted.

Clause 96 of the Bill seeks to constitute one or more Gujarat Public Trusts Tribunal consisting of the Presidents and such other members. An approximately sum of Rs. 92.37 lakhs will be required to meet the expenditure towards salary and allowances of the President, members and subordinate staff, office expense and vehicle, etc. The aforesaid expenditure shall have to be met at the first instance from the Consolidated Fund of the State but the same shall have to be reimbursed to the Government at the end of each financial year from the Public Trusts Administration Fund. As such, the Bill, if enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the State.

DILEEP SANGHANI,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers in the following respects, namely :-

- Clause 1.-** Sub-clause (3) of this clause empowers the State Government to appoint by notification in the *Official Gazette* the date on which the Act shall come into force.
- Clause 3.-** This clause empowers the State Government to appoint, by notification in the *Official Gazette*, the Charity Commissioner to exercise such powers and perform such duties and functions as are conferred by or under the provisions of the Act.
- Clause 4.-** (i) Sub-clause (1) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, one or more Joint Charity Commissioners, who shall, subject to the control of the Charity Commissioner and the State Government, exercise all or any of the powers and perform all or any of the duties and functions of the Charity Commissioner;
- (ii) sub-clause (2) of this clause empowers the State Government to declare by special or general order, the Joint Charity Commissioner to be the regional head in one or more regions or sub-regions.
- Clause 6.-** This clause empowers the State Government to appoint Deputy and Assistant Charity Commissioner in the office of the Charity Commissioner or for such region or sub-regions or for such trusts or such class of trusts.
- Clause 7.-** This clause empowers the State Government to appoint the Director of Accounts and Assistant Directors of Accounts, Inspectors and other subordinate officers and also empowers the State Government to delegate, by general or special order, to the Charity Commissioner powers to appoint subordinate officers and employees.
- Clause 10.-** (i) Sub-clause (1) of this clause empowers the State Government to delegate any of its powers or functions under the Act to the Charity Commissioner or any other officer on such conditions as it think fit;
- (ii) sub-clause (2) of this clause empowers the State Government to direct that any powers exercisable and duties or functions to be performed by any officer may be performed by any other officer on such conditions as it thinks fit.
- Clause 16.-** This clause empowers the State Government to form region and sub-region and to prescribe and alter limits of such regions and sub-regions, and the same shall be notified in the *Official Gazette*.
- Clause 18.-** This clause empowers the State Government to appoint a Deputy or Assistant Charity Commissioner to be in charge of one or more Public Trust Registration Offices.
- Clause 19.-** This clause empowers the State Government to prescribe by rules the form to keep and maintain such book indices and other registers in every Public Trust Registration Office and particulars of such books, indices and registers.
- Clause 20.-** (i) Sub-clause (4) of this clause empowers the State Government to prescribe by rules fees to be paid with applications for registration of the public trust;

(ii) item (xi) of sub-clause (6) of this clause empowers the State Government to prescribe by rules such other particulars of the application;

(ii) sub-clause (7) of this clause empowers the State Government to prescribe by rules the manner of submission of application for registration of a public trust;

(iii) item (i) of sub-clause (9) empowers the State Government to prescribe the form of memorandum describing particulars of immovable property;

(iv) item (ii) of sub-clause (9) empowers the State Government to prescribe the manner in which the trustee shall sign and verify the memorandum.

Clause 21.- This clause empowers the State Government to prescribe by rules the manner for holding an inquiry for the purposes referred therein with respect to application for registration of public trust.

Clause 24.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules the form containing the particulars relating to any change in the immovable property of a public trust;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe the form of memorandum containing such particulars which may be forwarded to the Sub-Registrar and the manner for verification thereof;

(iii) sub-clause (3) of this clause empowers the State Government to prescribe the manner in which the Deputy or Assistant Charity Commissioner may hold an inquiry.

Clause 25. - This clause empowers the State Government to prescribe by rules the book in which the Deputy or Assistant Charity Commissioner shall make an entry of trust property situate in several regions or sub-regions.

Clause 29.- This clause empowers the State Government to prescribe by rules the form of Memorandum in which entries relating to immovable property of public trust is to be made.

Clause 33.- Sub-clause (1) of this clause empowers the state Government to prescribe by rules the amount, exceeding which public trust shall be required to prepare the budget every year and also to prescribe the form in which such budget shall be prepared.

Clause 34.- This clause empowers the State Government to prescribe by rules the form containing such particular in which accounts shall be keep and maintained by every trustee.

Clause 35.- (i) Para (a) of sub-clause (4) of this clause empowers the State Government to prescribe by rules fees for special audit;

(ii) para (b) of sub-clause (4) of this clause empowers the State Government to exempt by general or special order any public trust or class of trusts from the provisions of sub-clause (2) of this clause subject to such conditions as may be specified in the order.

- Clause 38.-** Sub-clause (2) of this clause empowers the State Government to prescribe by rules the manner in which the decision of Charity Commissioner shall be published and shall be communicated to the trustees.
- Clause 40.-** Sub-clause (1) of this clause empowers the Charity Commissioner to specify the form or forms for maintaining a register relating to movable and immovable property.
- Clause 41.-** Sub-clause (1) of this clause empowers the State Government to authorise any gazetted officer, by general or special order, to enter and inspect any property belonging to a public trust, etc.
- Clause 46.-** Sub-clause (1) of this clause empowers the State Government to give directions to Charity Commissioner for ensuring proper administration of trust property, etc.
- Clause 47.-** (i) Sub-clause (1) of this clause empowers the Charity Commissioner to issue direction to the public trusts under the general or special orders of the State Government to provide medical facilities to the indigent persons and weaker sections of the society in the hospital run by public trust;
- (ii) para (b) of sub-clause (1) of this clause empowers the State Government to determine by general or special order the rates for seeking medical treatment;
- (iii) Explanation to sub-clause (1) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, the indigent person and persons belonging to the weaker section of the society.
- Clause 54.-** Sub-clause (1) of this clause empowers the State Government to prescribe by rules the manner in which the interested person may make an application to the Charity Commissioner for framing a scheme for proper management of the trust.
- Clause 56.-** (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules the form in which the account shall be submitted to the Deputy or Assistant Charity Commissioner;
- (ii) sub-clause (3) of this clause empowers the Deputy or Assistant Charity Commissioner to pass the order in the manner in which the amount shall be disposed of.
- Clause 57.-** Sub-clause (1) of this clause empowers the State Government to prescribe time within which the Charity Committee shall require the trustees to apply to the Tribunal for directions.
- Clause 61.-** (i) Para (ii) of sub-clause (1) of this clause empowers the State Government to declare by notification in the *Official Gazette*, any temple, mosque or endowments created for public religious or charitable purpose to be a public trust;
- (ii) sub-clause (2) of this clause empowers the State Government to publish, by notification in the *Official Gazette*, a list of such endowments as are registered as or declared to be public trusts or by a like notification to add or delete any endowment from such register.
- Clause 63. -** (i) Sub-clause (1) of this clause empowers the State Government to appoint, by a notification in the *Official Gazette*, one or more committees for one or more districts for the purpose of vesting or transferring management of the endowments;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules such conditions and restrictions subject to which the Committee shall acquire, hold and dispose of the property.

Clause 67.- Sub-clause (2) of this clause empowers the State Government to prescribe by rules the manner in which it shall direct to pay honorarium or fees and allowances to the Chairman, Treasurer and other members of the committee.

Clause 68.- This clause empowers the State Government to prescribe the time, place and procedure for holding the meeting of the committee and to approve the regulations made by the Committee for its day to day proceedings and routine business.

Clause 69.- This clause empowers the Committee to make regulations to determine the manner in which it shall appoint sub-committee or association of a person with the committee or a sub-committee.

Clause 71.- This clause empowers the State Government to prescribe by rules the terms and conditions subject to which the committee shall appoint the Secretary, officer and employees and also empowers the committee to prescribe the regulations for determining terms and conditions of the Secretary, officers and employees.

Clause 72.- Item (c) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, the fund from which the salaries and allowances shall be paid to the Secretary, officers and the employees of a committee.

Clause 76.- (i) Proviso to item (b) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, to grant exemption to any endowment or class of endowments from the payment of sum to the management fund of the managing committee;

(ii) item (d) of sub-clause (2) of this clause empowers the State Government to specify any other sum which shall be credited to management fund of the managing committee.

(iii) sub-clause (4) of this clause empowers the State Government to prescribe by rules the manner in which the management fund shall be regulated.

Clause 77. - (i) Sub-clause (1) of this clause empowers the State Government to supersede a committee, by notification in the *Official Gazette*, for the reasons stated therein, for such period as may be specified in the notification;

(ii) sub-clause (3) empowers the State Government to reconstitute the committee in the manner provided in clause 63.

Clause 78.- Sub-clause (4) of this clause empowers the State Government by general or special order to determine salary and allowances and such other conditions of service subject to which the Administrator shall exercise its powers and perform duties and functions.

Clause 79. - This clause empowers the Committee to make regulations with the approval of the State Government.

Clause 82. - (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules the manner in which and on such date the contribution shall be made to the Public Trusts Administration Fund;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules the manner for adjustment of income and expenditure to be made after the contribution payable is assessed;

(ii) Sub-clause (3) of this clause empowers the State Government to provide by rules for exemption of any public trust or class of public trusts from the whole or any part of the contribution payable under clause (1).

Clause 84.- This clause empowers the State Government make general or special order in which the Public Trusts Administration Fund shall be applied.

Clause 85. - This clause empowers the State Government to prescribe by rules the manner in which custody and investment of the moneys in disbursement and payment from the Public Trusts Administration Fund shall be regulated.

Clause 96.- (i) sub-clause (3) of this clause empowers the State Government to prescribe by rules the procedure to be followed by the Tribunal.

(ii) item (d) of sub-clause (4) of this clause empowers the State Government to prescribe by rules such other powers of the Tribunal under Code of Civil Procedure.

Clause 108. - Sub-clause (1) of this clause empowers the State Government to prescribe the form of notice to be published in the *Official Gazette* for reconstruction of the damaged or destroyed records.

Clause 119. - This clause empowers the State Government to make, by notification in the *Official Gazette*, rules generally for carrying out the purposes of the Act and particularly for all or any of the matters specified in sub-clause (2).

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 17th March, 2011.

DILEEP SANGHANI.

By order and in the name of the Governor of Gujarat,

Gandhinagar
Dated the 18th March, 2011.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT VALUE ADDED TAX (AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 26 OF 2011.

further to amend the Gujarat Value Added Tax Act, 2003.

A BILL

It is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Value Added Tax (Amendment) Act, 2011. Short title and commencement.

(2) It shall come into force on the 1st April, 2011.

Guj. 1 of 2005.

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as "the principal Act"), in Section 7, in sub-section (1 A), in the proviso, item (a), shall be deleted. Amendment of section 7 of Guj. 1 of 2005.

Amendment of
section 9 of
Guj. 1 of 2005.

3. In the principal Act, in section 9, in sub-section (6), in the proviso, item (a), shall be deleted. Guj. 1 of 2005.

Amendment of
Schedule II of
Guj. 1 of 2005.

4. In the Gujarat Value Added Tax Act, 2003, in Schedule II, in the entry at Seril No.76A in column 3, for the words "Seventeen and a half paise in the rupee", the words "Twenty-two and a half paise in the rupee" shall be substituted. Guj. 1 of 2005.

STATEMENT OF OBJECTS AND REASONS

Tobacco and its products are injurious to health. Prevention of its use and reduction in consumption of tobacco and its products is necessary in the interest of the society. Increase in the rate of tax on these products helps in restricting the use of these products to some extent. The Finance Minister in his Budget speech in the Legislative Assembly on the 25th February, 2011 has proposed to increase the rate of tax on tobacco and its products from the present rate of 20% inclusive of additional tax to 25%. It is, therefore, considered necessary to amend the Gujarat Value Added Tax Act, 2003 to increase the rate of tax on tobacco and its products from the present rate of 20% to 25% inclusive of additional tax.

Further, certain goods are declared as goods of special importance in inter-state trade or commerce under section 14 of the Central Sales Tax Act, 1956. In accordance with the provisions under section 15 of the said Act, the tax payable on sale or purchase of declared goods inside the State is not to exceed four percent.

In the Central Budget for the year 2011-12, it has been proposed by the Central Government to increase the existing tax limit for declared goods which empowers the State Government to levy the tax to the extent of five percent.

It is, therefore, considered necessary to amend the said Act to increase the rate of tax on declared goods which are liable to tax at the rate of four percent under the Gujarat Value Added Tax. The said object of increasing the rate of tax on declared goods can be achieved by deleting the existing provisions of item (a) to proviso to sub-section (1 A) of section 7, and item (a) to proviso to sub-section (6) of section 9 of the Gujarat Value Added Tax Act, 2003. By deletion of the said provisions, the tax at the increased rate can be levied as tax on such goods.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

Gandhinagar,
Dated the 18th March, 2011.

VAJUBHAI VALA,

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 18th March, 2010.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.

Government Central Press, Gandhinagar.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT REGULARISATION OF UNAUTHORISED DEVELOPMENT BILL, 2011.

GUJARAT BILL NO. 27 OF 2011.

A B I L L

*to regularise the unauthorised development in development areas in the
State and for matters connected therewith or incidental thereto.*

WHEREAS there has been unauthorised developments in the city of Ahmedabad and development areas in the State, on a large scale;

AND WHEREAS such unauthorised developments are liable to be removed and pulled down;

AND WHEREAS by removal and pulling down of such unauthorised developments, hardship to a large number of people is likely to be caused;

NOW, THEREFORE, it is expedient to have a law to provide for regularisation of certain unauthorised developments.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Gujarat Regularisation of Unauthorised Development Act, 2011.

(2) It extends to whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. (1) In this Act, unless the context otherwise requires, —

- (a) “applicant” means an occupier or owner intending to make an application for regularisation of unauthorised development under section 5;
- (b) “Bombay Act” means the Bombay Provincial Municipal Corporations Act, 1949;
- (c) “built-up area” means the area covered by a building on all floors including cantilevered or projection portion;
- (d) “Commissioner” shall have the meaning assigned to it in clause (9) of section 2 of the Bombay Act;
- (e) “designated authority” means the Commissioner or any other authority or person appointed as the designated authority under section 3;
- (f) “development” shall have the meaning assigned to it in clause (viii) of section 2 of the Gujarat Act;
- (g) “Gujarat Act” means the Gujarat Town Planning and Urban Development Act, 1976;
- (h) “GDCR” means the general development control regulations made under clause (m) of sub-section (2) of section 12 of the Gujarat Act;
- (i) “Ground Coverage” means the total built-up area at the ground level;

Bom. LIX of
1949.

- (j) "land" means the land as defined in clause (xiii) of section 2 of the Gujarat Act;
- (k) "occupier" means,—
 - (i) any person who for the time being is paying or is liable to pay to the owner the rent of the land or building in respect of which such rent is paid or is payable;
 - (ii) an owner living in or otherwise using his land or building;
 - (iii) a rent free tenant;
 - (iv) a licensee in occupation of any land or building;
 - (v) any person who is liable to pay to the owner damages or compensation for the use and occupation of any land or building;
- (l) "owner" means in relation to any property, includes any person who is, for the time being receiving or entitled to receive, whether on his own account or on account of or on behalf of, or for the benefit of, any other person or as an agent, trustee, guardian, manager or receiver for any other person or for any religious or charitable institution, the rents or profits of the property; and also includes a mortgagee in possession thereof;
- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "unauthorised development" means the development where, irrespective of ownership, no permission of a building or a part thereof is obtained from the authority competent to give such permission, or having obtained permission, the development is in contravention of the relevant law or of such permission.

(2) Words and expressions used in this Act but not defined shall have the meaning as assigned to them in the Gujarat Act and the rules made thereunder.

3. (1) The State Government may appoint, by notification in the *Official Gazette*, the Commissioner as the Designated Authority for the area as specified in such notification.

**Designated
Authority.**

(2) The State Government may also appoint, by notification in the *Official Gazette*, any other authority or person as the Designated Authority as it deems fit for the area specified in such notification.

Public
awareness.

4. The designated authority, as soon as may be, after the appointed date under sub-section (3) of section 1 shall cause the substance of the Act to be published for the information of the public in such manner as may be prescribed.

Notice and
application
for
unauthorised
development.

5. (1) At any time before the commencement of this Act, a notice issued to an owner or occupier or any order issued or decision taken under the relevant law requiring such owner or occupier to remove or pull down or alter unauthorised development carried out shall be deemed to have stood suspended unless and until such notice, order or decision stands revived under sub-section (2) of section 6 :

Provided that such provision shall not be applicable in case of development carried on land in respect of matters provided in sub-section (1) of section 8.

(2) Notwithstanding anything contained in the relevant law or in the order issued or the decision taken under the relevant law, directing removal, pulling down or alteration of unauthorised development, or discontinuance of any use of land or building, the designated authority shall either *suo moto* or otherwise, within six months from the commencement of this Act, or within such period as may be extended by the State Government by order in writing, serve on the owner or occupier a notice in the manner as may be prescribed and direct him to furnish such particulars and documents as the designated authority deem necessary:

Provided that any applicant who has been served with the notice under the relevant laws as provided in sub-section (1), or not may make an application in the manner as may be prescribed to the designated authority for regularisation of any unauthorised development within the period of six months from the commencement of this Act, or within such period as may be extended by the State Government by an order in writing :

Provided further that in case where more than one owner or occupiers are availing the facility of unauthorised development in part or

whole, all such owners or occupiers shall make an application jointly to the designated authority :

Provided also that the designated authority may after making such inquiry as it thinks fit, if satisfied, allow the lesser number of owners or occupiers to make an application.

(3) The occupier or owner or, as the case may be, the occupiers or owners shall reply in response to the notice served on him or them under sub-section (2) within a period of one month of such notice and in such manner as may be prescribed.

6. (1) On receipt of the reply to the notice or the application made by the applicant under section 5, the designated authority shall, within a period of eighteen months or such period as may be extended by the State Government by an order in writing, scrutinize the same and after making such inquiry as it may deem fit, is of the opinion that the unauthorised development can be regularised, shall pass an order requiring the applicant to pay fees, if any, payable under the relevant laws and the fees payable under this Act for regularisation of unauthorised development.

Grant or
refusal to
regularise
unauthorised
development.

(2) The applicant shall pay the fees as required under sub-section (1) within a period of one month from the date of the order, failing which the notice or order or decision as referred to in sub-section (1) of section 5, shall stand revived and in a case where no notice under the relevant law has been given as provided in sub-section (1) of section 5, the application shall stand refused.

(3) On payment of fees as provided under sub-section (2), the designated authority shall pass an order regularizing the unauthorised development, wholly or partly, with or without conditions, in the form and manner as may be prescribed.

(4) If, on scrutiny of the reply to the notice or the application of the applicant and after making such inquiry, as he deems fit, the designated authority is of the opinion that the unauthorised development cannot be regularised, it shall pass an order, within eighteen months of such reply to notice or application, refusing to regularise such unauthorised development, stating the grounds therefore, in the prescribed form and manner as may be prescribed.

Fees for
regularisation.

7. The State Government shall prescribe, by notification in the *Official Gazette*, the fees payable under this Act and mode of calculation thereof for regularisation of any unauthorised development in respect of the matters specified in sub-section (1) of section 10.

Circumstances in
which
unauthorised
development
shall not be
regularised.

8. (1) An unauthorised development shall not be regularised in a case where unauthorised development is carried out on any of the following lands, namely:-

- (a) land belonging to Government, local authority or statutory body;
- (b) land acquired or allotted by the Government, local authority or statutory body for a specific purpose;
- (c) land under alignment of roads indicated in development plan or a town planning scheme or under alignment of a public road;
- (d) land designated or reserved under a development plan or a town planning scheme;
- (e) lands till regularised as provided in section 9,
- (f) water courses and water bodies like tank beds, river beds, natural drainage and such other places;
- (g) areas earmarked for the purpose of obnoxious and hazardous industrial development

(2) An unauthorised development shall not be regularised if it is inconsistent with -

- (a) fire safety measures under the relevant law, or
- (b) structural stability requirements as per the G D C R:

Provided that subject to other provisions of this Act, on presentation of a certificate from the authority, as may be prescribed, with regard to the compliance of the provisions of clause (a) or (b) or both, as the case may be, the designated authority may regularise the unauthorised development.

(3) Notwithstanding anything contained in clause (a) of sub-section (2), the designated authority may for the purpose of

regularisation of unauthorised development, direct the applicant for making of provisions in the unauthorised development as follows, namely: -

- (a) In the case of buildings with 100 per cent. built-up area with no space for water storage tank and installation of fire pumps and no provision of alternate means of escape or no provision for fixed fire-fighting installations, the designated authority may, in consultation with the Chief Fire Officer of the municipal corporation, area development authority or, as the case may be, the urban development authority direct the applicant to provide such fire safety measures as may be specified in the direction within a period of three months from the date of such direction.
- (b) In the case of buildings where no space is available within the complex in which they are situated for the construction of underground water storage tanks and installation of fire pumps but adequate means of escapes are available, the designated authority may direct the applicant to provide common underground water storage tank and fire pumps in such complex at suitable location within a period of three months from the date of direction.

Bom.
LXVII of
1948.
Bom. XCIX
of 1958.

9. Notwithstanding anything contained in section 84C of the Bombay Tenancy and Agricultural Lands Act, 1948 and in section 122 of the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958, the lands for which the previous sanction of the Collector under sections 43 and 57 respectively of the said Acts was required but has not been taken and unauthorised development has been carried out on such lands then so far as the regularisation of the transaction of such land is concerned, the same shall be regularised in accordance with the scheme that may be framed by the State Government in the Revenue Department.

Regularisation of
lands for which
sanction of
Collector is not
taken.

10. (1) The designated authority may regularise any unauthorised development in respect of the following matters, namely:-

- (i) Ground Coverage,
- (ii) Built up area,
- (iii) Height of building,

Circumstances in
which
unauthorised
development may
be regularised.

- (iv) Change of use,
 - (v) Common plot, and
 - (vi) Parking, subject to the condition that the occupier or owner shall provide parking as per GDCR in unauthorised development and where it is not so feasible, in a place owned or occupied by himself or more than one applicant, within such distance not exceeding five hundred meters from the unauthorised development as directed by the designated authority within a period of six months from such direction. However, in the event of non-compliance of the aforesaid directions for any reason, the Designated Authority shall refer matter to the Committee as may be constituted by the State Government by rules and such committee after making such inquiry as it deems fit, will suggest suitable options which shall be taken into consideration by the Designated Authority for the purpose of implementation;
 - (vii) Sanitary facility, subject to the condition that the designated authority is satisfied that the sanitary facility provided is adequate;
 - (viii) such other matters which the State Government may, prescribe.
- (2) The designated authority shall not regularise unauthorised development in respect of the following matters, namely:-
- (a) having such floor space index which the State Government may prescribe;
 - (b) projections beyond the plot boundary;
 - (c) the change of use which in the opinion may cause danger to health or lead to health hazard;
 - (d) falling under the alignment of means of water supply, drainage, sewerage, supply of electricity or gas or of any other public utility service; and
 - (e) such unauthorised development which the State Government may, prescribe.

**Consequences of
regularisation.**

11. (1) On regularisation of such unauthorised development under section 6, all court cases or other proceedings, filed by the appropriate authority or the occupant or the owner or otherwise and pending in any

court in so far as they relate to such unauthorised development, shall stand abated.

(2) Any decision under this Act shall not deemed to have decided the ownership of the unauthorised development.

12. (1) Any person aggrieved by the order or decision of the designated authority under section 6 may within sixty days from the date of the receipt of the order prefer an appeal to an Appellate Officer, who shall be a person who has held the office of a Judge of District Court for a period not less than three years or a Secretary to the Government of Gujarat, and appointed in this behalf by the State Government.

Appeal.

(2) The State Government may appoint as many Appellate Officers as it may deem fit for different areas or part thereof :

Provided that, the Appellate Officer may entertain the appeal after the expiry of the said period of sixty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) On receipt of an appeal under sub-section (1) along with a fee of rupees one hundred, the appellate officer may, after giving the appellant an opportunity of being heard, pass an order confirming, modifying or cancelling the order appealed against as expeditiously as possible.

(4) The decision of the Appellate Officer under sub-section (2) shall be final and shall not be questioned in any court of law.

(5) No appeal under this section by an aggrieved applicant shall be entertained by the Appellate Officer unless an amount equivalent to the 50% of the fees payable under this Act is deposited with the designated authority:

Provided that where in the opinion of the Appellate Officer amount to be deposited by the appellant is likely to cause undue hardship to him, the Appellate Officer may in his discretion unconditionally or subject to such conditions as he may think fit to impose, dispense with a part of the amount to be deposited so however that the part of amount so dispensed with shall not exceed fifty per cent. of the amount required to be deposited.

(6) The Appellate Officer shall receive, such monthly salary and such other facilities and allowances from such authority as the State Government may determine from time to time.

(7) The provisions of sub-sections (2) to (5) shall not apply in a case where the appeal is not preferred by the occupier or owner.

**Constitution of
Infrastructure
Development
Fund.**

13. Subject to the rules made under this Act, all amounts received under this Act shall be credited to a fund which shall be called the "Infrastructure Development Fund" which shall be held by the Designated Authority in trust for the purposes of augmentation, improvement or creation of an infrastructure facility.

**Protection of
action taken in
good faith.**

14. (1) No suit, prosecution or other legal proceedings shall lie against any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceedings shall lie against the State Government or any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

**Removal of
doubt.**

15. For the removal of doubt, it is hereby declared that regularisation of unauthorised development under this Act shall be without prejudice to any civil or the criminal liability to which an applicant may be subject to under any law for the time being in force.

**Power of State
Government to
give directions.**

16. (1) The State Government may issue, from time to time, direction to the designated authority as it may deem fit for giving effect to the provisions of this Act and it shall be the duty of the designated authority to comply with such directions.

(2) If any dispute arises with respect to the exercise of powers and discharge of functions by the designated authority under this Act, the same shall be referred to the State Government and the decision of the State Government thereon shall be final.

**Power to make
rules.**

17. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely :-

- (i) the manner of publication of the substance of the Act for public awareness under section 4;
- (ii) the form of notice to be served on the owner or occupier and the form of application to regularise unauthorised development and manner thereof under sub-section (2) of section 5;
- (iii) the manner for giving reply in response to the notice under sub-section (3) of section 5;
- (iv) the form of order to regularise unauthorised development and the manner under sub-section (3) of section 6;
- (v) the form of order refusing to regularise unauthorised development and the manner under sub-section (4) of section 6;
- (vi) the rates of fees payable mode of calculation of fees under section 7;
- (vii) such other matter under clause (viii) of sub-section (1) of section 10 for regularisation of unauthorised development.
- (viii) such other matters which shall not be regularised specified in clause (e) of sub-section (2) of section 10;
- (ix) constitution of the Committee under clause (vi) of sub-section (1) of section 10;

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be they are made, and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

**Act to have
overriding
effect.**

18. The provisions of this Act shall have overriding effect notwithstanding anything contained in any other law for the time being in force, in so far as the regularisation of unauthorised development is concerned.

**Repeal and
savings.**

19. (1) The Gujarat Regularisation of Unauthorised Development Act, 2001 is hereby repealed.

Guj. 23 of 2001.

(2) Notwithstanding such repeal, all notices and directions issued under the repealed Act shall be deemed to have been issued under the provisions of this Act and all proceedings pending before the designated authority including appeals pending before the Appellate Officer shall be decided in accordance with the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

On account of the rapid growth of economic opportunities in and around the major cities of Gujarat, there has been constant influx of the rural population to the urban areas resulting in steep increase in demand for properties for residential, commercial and other uses. This has resulted in feverish construction activities and, several buildings so constructed do not conform to the existing building regulations. Consequently, in the urban areas of the State there have come up a large number of buildings which have been constructed without permission or where permission is granted, constructed in contravention of development and control regulations has taken place. The owners and occupants of such buildings have been given notices under the Bombay Provincial Municipal Corporations Act, 1949 or, the Gujarat Town Planning and Urban Development Act, 1976 as the case may be, requiring them to remove, pull down or alter the buildings. However, the owners and occupants have failed to comply with the requisition of the notice. To meet with the situation, in 2001 the Gujarat Regularisation of Unauthorised Development Act was enacted and some of the unauthorised developments were regularised. However, unauthorised developments which have come after the enactment of previous Act which have not been regularised are a cause of concern. Removal or pulling down of large number of buildings is neither feasible nor desirable. Removal, pulling down or alteration of buildings on a large scale is fraught with the possibility of creating law and order problem and hardship to the people as a large number of the people would be rendered homeless who would have to be provided with housing. The social and economic fabric of the society would be disturbed leading to a chaotic situation in the society. In order to avoid such a situation, intervention of the Government by enacting suitable legislation has become a compelling necessity. Faced with similar situation, some other State Governments in the country have also come out with suitable legislation for regularisation.

It is, therefore, considered necessary to enact a law so as to regularise the unauthorised development.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain, in brief, some of the important provisions of the Bill:-

Clause 1.- This clause provides for the short title, extent and commencement of the Act.

Clause 2.- This clause provides for certain terms used in the Bill.

Clause 3.- This clause provides for appointment of the authority or person by the State Government as the designated authority by notification in the *Official Gazette*, for the area specified in such notification.

Clause 4.- This clause provides that the designated authority shall cause the substance of the Act to be published for the information of the public.

Clause 5.- This clause provides for making application for regularisation of unauthorised development, notice to be given by designated authority, the procedure to be followed for the deciding regularisation of unauthorised development.

Clause 6.- This clause provides for the grant or refusal by the designated authority, to regularise the unauthorised development.

Clause 7.- This clause provides that the State Government shall fix by notification in the *Official Gazette*, the fees payable for regularisation of unauthorised development.

Clause 8.- This clause provides for the matters in which unauthorised development shall not be regularised.

Clause 9.- This clause provides for the regularisation of the transaction of the lands for which necessary permission of the Collector has not been obtained under the relevant Tenancy Acts.

Clause 10.- This clause provides for the circumstances under which unauthorised development shall be regularised.

Clause 11.- This clause provides that all court cases or other proceedings, filed by the appropriate authority or the occupant or the owner or otherwise and pending in any court in so far as they relate to unauthorised development, shall be abated on regularisation of such unauthorised development.

Clause 12.- This clause provides for the an appeal by any person aggrieved by the order or decision of the designated authority; it also provides for the appointment of an Appellate Officers to be appointed by the State Government and the procedure to be followed in the appeal.

Clause 13.- This clause provides for the constitution of the "Infrastructure Development Fund" held by the designated authority in trust for the purposes of augmentation, improvement or creation of an infrastructure facility.

Clause 14.- This clause provides for usual indemnity for action taken in good faith.

Clause 15.- This clause provides that regularisation of unauthorised development under this Act shall be without prejudice to any civil or the criminal liability under any law for the time being in force.

Clause 16.- This clause empowers the State Government to give directions to the designated authority for giving effect to the provisions of this Act.

Clause 17.- This clause empowers the State Government to make, by notification in the *Official Gazette*, rules generally for carrying out the purposes of this Act and particularly for all or any of the matters specified in sub-clause (2) of this clause.

Clause 18.- This clause provides for the overriding effect for anything contained in any other law for the time being in force, in so far as the regularisation of unauthorised development is concerned.

Clause 19.- This clause provides for the repeal of the Gujarat Regularisation of Unauthorised Development Act, 2001 and savings thereof.

NITIN PATEL,

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the appointment of the designation authority by the State Government. Since the officer to be appointed as designated authority would be from the concerned local

authority the expenses towards his pay and allowances and other office expenses would be borne by the concerned authority.

Clause 10 of the Bill provides for the constitution of the Committee by the State Government. The expenditure towards the pay and allowances of the members of the Committee, office expenses and other expenditure shall be borne by the respective concerned authority.

Clause 12 of the Bill provides for the appointment of the appellate officer by the State Government. The expenses towards pay and allowances and other facilities would be borne by the concerned authority.

If, the Bill is enacted and brought into force would not involve any expenditure from the Consolidated Fund of the State.

NITIN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects:-

Clause 1.- Sub-clause (3) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 3.- This clause empowers the State Government to appoint, by notification in the *Official Gazette*, such authority or person as the designated authority as it deems fit for the area specified in such notification.

Clause 4.- This clause empowers the State Government to prescribe by rules the manner in which the substance of the Act shall be published for the information of the public.

Clause 5.- (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules the manner in which a notice

shall be served by the designated authority to the owner or occupier directing him to furnish such particulars and documents as he deems necessary;

(ii) proviso to sub-clause (2) of this clause empowers the State Government to prescribe by rules the manner in which the applicant may make an application to the designated authority within the period mentioned therein for regularized land of any regularized development;

(iii) sub-clause (3) of this clause empowers the State Government to prescribe by rules, the manner in which the occupier or owner or the occupiers or owners shall reply to the notice served on him or them.

Clause 6. (i) Sub-clause (3) of this clause empowers the State Government to prescribe by rules the manner in which the designated authority shall pass an order regularizing the regularized development, wholly or partly, with or without conditions, on payment of fees.

(ii) sub-clause (4) of this clause empowers the State Government to prescribe by rules the forms and the manners in which the designated authority shall pass an order refusing to regularize such regularized development.

Clause 7.- This clause empowers the State Government to prescribe by notification in the *Official Gazette* the fees payable under the Act and mode of calculation thereof.

Clause 8.- Proviso to sub-clause (2) of this clause empowers the State Government to prescribe by rules, the authority from whom a certificate shall be obtained and presented to the designated authority with regard to the compliance of the provisions of clause (a) or (b) or both of that clause.

Clause 9.- This clause empowers the State Government to frame a scheme for regularized land of the transaction of the lands for which the previous permission of the Collector has not been obtained.

Clause 10.- (i) Para (viii) of sub-clause (1) of this clause empowers the State Government to prescribe by rules the other matters in respect of which the designated authority may regularize the regularized development;

(ii) Para (ix) of sub-clause (1) of this clause empowers the State Government to constitute by rules the Committee to suggest suitable options in the event of non-compliance of the directions for any reason;

(iii) Para (a) of sub-clause (2) of this clause empowers the State Government to prescribe by rules the floor space index for the regularized development;

(iv) Para (e) empowers the State Government to prescribe by rules the regularized development which shall not be regularized.

Clause 17.- Sub-clause (1) of this clause empowers the State Government to make rules, subject to the condition of previous publication, for carrying out the purposes of this Act and to provide for all or any of the matters mentioned in the said clause.

Gandhinagar,
Dated the 18th March, 2011.

NITIN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar
Dated the 19th March, 2011.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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The Gujarat Government Gazette

EXTRAORDINARY

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Vol. LIII]

MONDAY, MARCH 21, 2011/PHALGUNA 30, 1932

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT WATER SUPPLY AND SEWERAGE BOARD (AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 28 OF 2011.

A BILL

further to amend the Gujarat Water Supply and Sewerage Board Act, 1978.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Water Supply and Sewerage Board (Amendment) Act, 2011: Short title.
2. In the Gujarat Water Supply and Sewerage Board Act, 1978 (hereinafter referred to as "the principal Act"), in section 4, in sub-section (1), for clause (b), the following clause shall be substituted, namely :- Amendment of section 4 of Guj. 18 of 1979.

“(b) the Member-Secretary to be appointed by the State Government, who may be a qualified engineer or an officer having administrative experience as the State Government may deem fit;”.

Guj. 18 of 1979.

Amendment of 3.
section 20 of
Guj. 18 of 1979.

In the principal Act, in section 20, in sub-section (9),-

- (i) existing clause (d) shall be numbered as sub-clause (i) of that clause; and
- (ii) after sub-clause (i) as so renumbered, the following sub-clause shall be inserted, namely:-
 - “(ii) if any employee is aggrieved by the decision of the Board pursuant to sub-clause (i), he may prefer an appeal to the State Government within sixty days from the date of such decision.”

STATEMENT OF OBJECTS AND REASONS

Section 4 of the Gujarat Water Supply and Sewerage Board Act, 1978, provides for the constitution of the Gujarat Water Supply and Sewerage Board. Clause (b) of sub-section (1) of section 4 of the said Act provides for the appointment of the Member-Secretary of the Board. The post of Member-Secretary holds much importance in the Board. The said provision gives limited power to the State Government in so far as the appointment of Member-Secretary is concerned. Hence, it is felt necessary to amend the provisions to attract the competent and suitable person for the said post.

The provisions contained in clause (d) of sub-section (9) of section 20 of the said Act empowers the Board to take disciplinary actions in respect of such Government employees who have been transferred to the Board. However, the present provisions do not envisage the mode of appeal against the decision taken in the disciplinary proceedings against such employee. It is, therefore, considered necessary to insert a provision in the said Act providing therein the mode of appeal to the State Government by the aggrieved employee.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

Gandhinagar.
Dated the 19th March, 2011.

NITIN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 21st March, 2011.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly
Rules :-

THE GUJARAT LOKAYUKTA (AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 29 OF 2011.

A BILL

further to amend the Gujarat Lokayukta Act, 1986.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Lokayukta (Amendment) Act, Short title. 2011.

Amendment of
section 2 of Guj.
31 of 1986.

2. In the Gujarat Lokayukta Act, 1986, in section 2, in clause (7), after sub-clause (d), the following sub-clauses shall be inserted, namely :-

- (e) the Mayor or the Deputy Mayor of a municipal corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949; Guj. 31 of 1986.
Bom. LIX of 1949.
- (f) the President or the Vice-President of a municipality constituted under the Gujarat Municipalities Act, 1963; Guj. 34 of 1964.
- (g) the Sarpanch or the Up-Sarpanch of a village panchayat, the President or the Vice-President of a taluka panchayat or a district panchayat constituted under the Gujarat Panchayats Act, 1993; Guj. 18 of 1993.
- (h) the Chairman of any Committee constituted under the Bombay Provincial Municipal Corporations Act, 1949, or the Gujarat Municipalities Act, 1963 or the Gujarat Panchayats Act, 1993; Bom. LIX of 1949.
Guj. 34 of 1964.
Guj. 18 of 1993.
- (i) the Councillor who is a member of any Committee constituted under the Bombay Provincial Municipal Corporations Act, 1949 or the Gujarat Municipalities Act, 1963; Bom. LIX of 1949.
Guj. 34 of 1964.
- (j) the member, who is elected, of any Committee constituted under the Gujarat Panchayats Act, 1993.”. Guj. 18 of 1993.

STATEMENT OF OBJECTS AND REASONS

The 13th Finance Commission has recommended setting up of institution of Local Body Ombudsman to look into the complaints of corruption and maladministration against the functionaries of Local Bodies – both elected representatives and officials. The Commission has also recommended in the event that all or a class of elected representatives or officials fall under the jurisdiction of the Lokayukta of a State, the State may decide whether those functionaries should be shifted to the proposed institution of Ombudsman or to continue under the jurisdiction of the existing institution of Lokayukta. Now, so far as the officials of the Local Bodies are concerned effective alternative remedies are available for taking action against them in the cases of their indulgence in corruption or maladministration. However, the elected representatives of the Local Bodies at present are not covered within the ambit of the Gujarat Lokayukta Act, 1986. As such, it is necessary to bring the elected representatives of the Local Bodies who hold some post in the Local Bodies within the ambit of the Gujarat Lokayukta Act, 1986, so as to meet with the recommendation of the 13th Finance Commission. It is, therefore, considered necessary to bring within the jurisdiction of the Gujarat Lokayukta Act, 1986, the elected representatives of the Local Bodies who hold some post such as Mayor, Deputy Mayor of a Municipal Corporation, President, Vice-President of a Municipality, President, Vice-President of a Panchayat and Chairman and members of the Committees constituted by the respective Local Bodies under the respective Acts.

This Bill seeks to amend the said Act to achieve the aforesaid object.

Gandhinagar,
Dated the 21st March, 2011.

VAJUBHAI VALA.

By Order and in the name of the Governor of Gujarat,

Gandhinagar.
Dated the 21st March, 2011.

C. J. GOTHI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly

Rules :-

THE GUJARAT STATE COUNCIL FOR PHYSIOTHERAPY BILL, 2011.

GUJARAT BILL NO. 30 OF 2011.

A BILL

to provide for the constitution of the Gujarat State Council for Physiotherapy for the purpose of co-ordination and determination of standards of education in the field of Physiotherapy, to regulate the practice of Physiotherapy and for the maintenance of register of Physiotherapists in the State of Gujarat and for matters connected therewith or incidental thereto.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat State Council for Physiotherapy Act, 2011.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint; and the different dates may be appointed for different provisions of the Act.

Short title, extent
and
commencement.

Definitions. 2. In this Act, unless the context otherwise requires, -

- (1) "Council" means the Gujarat State Council of Physiotherapy constituted under section 3;
- (2) "Inspector" means an Inspector appointed by the Council under section 22;
- (3) "Institution" means any institution within or outside India which grants degrees in Physiotherapy as the case may be;
- (4) "member" means a member of the Council;
- (5) "Physiotherapist" means a person who possesses recognized Physiotherapy qualification and whose name has been enrolled in the register maintained under section 33;
- (6) "Physiotherapy" means a branch of modern medical science which includes examination, assessment, interpretation, physical diagnosis, planning and execution of treatment and advice to any person for the purpose of preventing, correcting, alleviating and limiting dysfunction, acute and chronic bodily malfunction, including life saving measures via chest physiotherapy in the intensive care units, curing physical disorders or disability, promoting physical fitness, facilitating healing and pain relief and treatment of physical and psychosomatic disorder through modulating physiological and physical response using exercises, physical agents, activities and devices including mobilization, manipulations, mechanical, electrical, and thermal agents, including therapeutic ultrasound and therapeutic LASER, and electrotherapy including electrophysiology for diagnosis, treatment and prevention;
- (7) "prescribed" means prescribed by rules made under this Act;
- (8) "President" means the President of the Council;
- (9) "Profession" means the profession of Physiotherapy;
- (10) "recognized qualification" means qualification in Physiotherapy obtained from any of the Universities or Institutions mentioned in the Schedule;
- (11) "Register" means the register of Physiotherapists maintained by the Council under section 33;
- (12) "registered practitioner" means a Physiotherapist whose name is entered and continues to remain on the register of the Council;

- (13) "Registrar" means the Registrar appointed under sub-section (1) of section 13;
- (14) "regulations" means regulations made by the Council;
- (15) "rules" means rules made under this Act;
- (16) "Schedule" means the Schedule appended to this Act;
- (17) "Vice –President" means the Vice-President of the Council.

CHAPTER II

GUJARAT STATE COUNCIL FOR PHYSIOTHERAPY

3. (1) The State Government shall, as soon as may be, after the commencement of this Act, constitute a Council called the "Gujarat State Council for Physiotherapy".
- Constitution and composition of Council.**
- (2) The Council shall consist of the following members, namely :-
- (i) the Director, Health Services or the Secretary to Government, Health and Family Welfare Department, as may be nominated by the State Government, *ex-officio*;
 - (ii) the Director, Medical Education; *ex-officio*;
 - (iii) one member not below the rank of Deputy Secretary to Government, Health and Family Welfare Department, dealing with the matters relating to Physiotherapy, to be nominated by the State Government;
 - (iv) one member not below the rank of Deputy Secretary to Government, Finance Department, to be nominated by the State Government;
 - (v) one member not below the rank of Deputy Secretary to Government, Legal Department, to be nominated by the State Government;
 - (vi) one member from the Gujarat Medical Council, to be nominated by the State Government;
 - (vii) four members from Physiotherapists, to be elected from amongst the registered practitioners enrolled in the register of Physiotherapists;
 - (viii) four Physiotherapists from recognized Physiotherapy teaching institutions, holding teaching posts, representing different Universities of Gujarat, to be nominated by the State Government;
 - (ix) two Physiotherapists, to be nominated by the State Government from the Government Institutions or Hospitals imparting physiotherapy education;
 - (x) two Physiotherapists, to be nominated by the State Government to represent such Physiotherapy organizations which can represent the interests of Physiotherapy :

Provided that the election of the members referred to in clause (vii) shall be held at such place and in such manner as may be prescribed.

- (3) Notwithstanding anything contained in sub-section (1), -
- (i) in respect of the constitution of the Council for the first time under this Act, the members thereof including the President and the Vice-President as mentioned in section 6 shall be nominated by the State Government from amongst persons qualified to be elected or nominated as members ; and
 - (ii) the members so nominated shall hold office for such period not exceeding three years.

Incorporation of Council. 4. The Council shall be a body corporate by the name of the "Gujarat State Council for Physiotherapy" having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable and shall by the said name sue and be sued.

- Objects of Council.** 5. The objects of the Council shall be as follows :-
- (i) to coordinate and determine the standards of Physiotherapy education at all levels;
 - (ii) to regulate the practice of the profession by persons possessing recognized Physiotherapy qualification;
 - (iii) to maintain the register of Physiotherapists for the State of Gujarat;
 - (iv) to advise the Government in matters relating to the requirement of manpower in the field of Physiotherapy.

President and Vice-President of Council. 6. (1) There shall be a President of the Council who shall be enrolled on the register and shall be elected by the members of the Council from amongst themselves. He shall, subject to the provisions of this Act, hold office for a term of five years from the date he enters upon his office.

(2) There shall be a Vice-President of the Council who shall be enrolled on the register and shall be elected by the members of the Council from amongst themselves. He shall, subject to the provisions of this Act, hold office for a term of five years from the date he enters upon his office.

(3) The President or the Vice-President shall, subject to the other provisions of this Act, be eligible for re-election.

7. Elections under this Chapter shall be conducted in the prescribed manner and where any dispute arises relating to such election, it shall be referred to the State Government whose decision shall be final.

Mode of election.

8. (1) Subject to the provisions of this section, an elected or nominated member shall hold office for a term of five years from the date of his election or nomination, as the case may be :

Term of office and filling up of casual vacancies.

Provided that the member nominated under section 3 shall hold office during the pleasure of the State Government.

(2) An elected or nominated member may, at any time, resign his membership by writing under his hand addressed to the President and the seat of such member shall, from the date on which such resignation is accepted by the President become vacant.

(3) An elected or nominated member shall be deemed to have vacated his seat-

- (i) if he is absent without the permission of the Council from its three consecutive ordinary meetings and his seat is declared vacant by the Council; or
- (ii) in the case of a member whose name is required to be included in the register of Physiotherapists, his name is removed from such register; or
- (iii) if he ceases to be a member of the Council; or
- (iv) if he becomes subject to any of the disqualifications mentioned in section 9.

(4) Any vacancy occurring in the office of any member, or account of any reason whatsoever, shall be filled by fresh election or nomination, as the case may be, and the person so elected or nominated shall hold office, subject to the provisions of sub-section (1) for the remainder of the term for which the member was elected or nominated, as the case may be.

(5) If a vacancy occurs in the office of the President or the Vice-President, whether by reason of his death, resignation or otherwise, it shall be filled by fresh election by and from amongst the members of the Council.

(6) A member of the Council shall be eligible for re-election or re-nomination but no member shall be eligible for re-election or re-nomination if he has been a member continuously for a period of ten years.

(7) Where the said term of five years is about to expire in respect of any member, a successor may be elected or nominated at any time within three months before the said term expires but he shall not assume office until the said term has expired.

Disqualifications. 9. No one shall be a member of the Council, if –

- (i) he is, or becomes of unsound mind and stands so declared by a competent court; or
- (ii) he is or has been, convicted of any offence involving moral turpitude, which, in the opinion of the Government renders him unfit to be a member of the Council;
- (iii) he is or at any time has been adjudicated as un discharged insolvent; or
- (iv) his name has been removed from the register and has not been re-entered therein.

Meeting of Council. 10. (1) The Council shall meet at least once in a year at such time and place as may be appointed by the Council:

Provided that the first meeting of the Council shall be held at such time and place as may be appointed by the President.

(2) One-third members of the total members of the Council shall form a quorum. When there is no quorum at a meeting, the presiding authority shall, after waiting for not less than thirty minutes for such quorum, adjourn the meeting for such hour or some future day as it may notify on the notice board at the office of the Council, and the business which would have been brought before the original meeting had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or any subsequent adjournment thereof, whether there be a quorum or not.

(3) At least fifteen clear days notice, in writing, along with agenda proposed to be considered at a meeting of the Council shall be given to the members for holding an ordinary meeting. The notice of meeting shall be served through registered post with acknowledgement due.

(4) The agenda of the meeting shall be settled by the Secretary in consultation with the President.

(5) An extra-ordinary meeting of the Council shall be convened if a requisition in writing by not less than one-fifth of the total number of members of the Council is made to the Secretary :

Provided that atleast seven clear days notice shall be given for convening such meeting.

Explanation.- The expression "clear days" in this section does not include the day of the issue and the day of the receipt of the notice.

11. (1) The proceedings of every meeting of the Council shall be treated as confidential and no person shall, without the previous resolution of the Council, disclose any portion thereof: **Proceedings of meetings.**

Provided that nothing in this section shall be deemed to prohibit any person from disclosing or publishing the text of any resolution adopted by the Council, unless the Council directs such resolution also to be treated as confidential.

(2) A copy of the proceedings of every meeting of the Council shall within fifteen days from the date of the meeting, be forwarded to the Government or any other authority appointed by it on its behalf.

12. No act or proceedings of the Council shall be invalid merely by reason if, - **Vacancies, etc., not to invalidate proceedings of Council.**

- (i) any vacancy in or any defect in the constitution of the Council; or
- (ii) any defect in the election or nomination of a person as a member of the Council; and
- (iii) any irregularity in the procedure of the Council not affecting the merits of the case.

13. (1) The Council shall, with the previous sanction of the State Government appoint the Registrar and the Deputy Registrar, who shall be qualified Physiotherapy graduates. **Appointment of Registrar, Deputy Registrar, officers and employees of Council.**

(2) The Executive Committee may, from time to time, grant leave to the Registrar :

Provided that, if the period of leave does not exceed one month, the leave may be granted by the President.

(3) During any temporary vacancy in the office of the Registrar due to leave or any reason, the Deputy Registrar shall act as Registrar. In case of non availability of Registrar and Deputy Registrar, the Executive Committee may, with the previous sanction of the Government, appoint another person to act in his place and any person so appointed shall, for the period of such appointment, be deemed to be the Registrar for the purpose of this Act:

Provided that when the period of such vacancy does not exceed one month, the appointment may be made by the President, who shall forthwith report such appointment to the Executive Committee and the State Government.

(4) The Council shall adopt the Gujarat Civil Services Rules *mutatis mutandis*.

(5) The Council may, with the previous sanction of the Government, suspend, dismiss or remove any person appointed as the Registrar, or impose any other penalty upon him in the manner as may be prescribed.

(6) Save as otherwise provided by this Act, the salary and allowances and other conditions of service of the Registrar shall be such as may be prescribed.

(7) The Registrar shall be the Secretary and the Executive officer of the Council. He shall attend all meetings of the Council, and of the Executive Committee, and shall keep minutes of the meetings and names of members present and of the proceedings of such meetings.

(8) The accounts of the Council shall be kept by the Registrar in the prescribed manner.

(9) The Registrar shall have such supervisory powers over the staff as may be prescribed, and may perform such other duties and discharge such other functions as may be specified in this Act, or as may be prescribed.

Executive
Committee and
other committees.

14. (1) The Council shall constitute from among its members an Executive Committee and other committees for such general or special purposes and for such tenure as the Council considers necessary for carrying out the functions under this Act.

(2) The Executive Committee shall consist of the following, namely:-

- (a) the President of the Council;
- (b) the Vice-President of the Council;
- (c) two members of the Council representing Physiotherapists, to be nominated by the President of the Council;
- (d) the Director of Health Services of the Government or his nominee;
- (e) one member representing the Medical Council of Gujarat.

(3) The President and the Vice-President of the Council shall be the Chairman and Vice-Chairman respectively of the Executive Committee.

(4) A member of the Executive Committee shall hold office as such until the expiry of his term of office as a member of the Council but

subject to his being a member of the Council; he shall be eligible for renomination.

(5) A member may resign his membership of the Committee by writing under his hand addressed to the Chairman of the Committee and action shall be taken to fill that seat in the same manner in which that seat was filled in.

(6) The Executive Committee shall exercise and discharge such powers and duties as may be prescribed.

15. (1) There shall be a Equivalence and Registration Committee for the purpose of recommending the recognition of degrees granted by institutions imparting training in Physiotherapy and to consider matters relating to registration of Physiotherapists. The recommendations of this committee shall be subject to approval by the Executive committee and the Council, unless otherwise provided in this Act.

**Equivalence and
Registration
Committee.**

(2) The Vice-President shall be Chairman of such committee. There shall be five other members nominated by the President of the Council from amongst the members of the Council, representing, educationists and specialists in different branches of Physiotherapy.

CHAPTER III FUNCTIONS OF COUNCIL

16. (1) Notwithstanding anything contained in this Act or any other law for the time being in force with effect from the date as may be notified by the Government, -

**Prior permission
for establishment
of new
institutions, new
course of study,
etc.**

- (a) no person shall establish an institution; or
- (b) no institution shall, -

(i) open a new or higher course of study or training including a postgraduate study or training which would enable a student of such course or training to qualify himself for the award of any recognized Physiotherapy qualification; or

(ii) increase its admission capacity in any course of study or training including a postgraduate studies;

except with the previous permission of the Government obtained in accordance with the provisions of this section.

Explanation 1.- For the purpose of this section "person" includes any University or a trust or a society or an institution or a company but does not include the Central Government or the State Government.

Explanation 2.- For the purpose of this section "admission capacity" in relation to course of study or training (including post-graduate course of study or training) in an institution means the maximum number of students that may be fixed by the Council from time to time for being admitted to such course or training.

(2) (a) Every person or institution shall, for the purpose of obtaining permission under sub-section (1) submit to the Government a scheme in accordance with the provisions of clause (b) and the Government shall refer the scheme to the Council for its recommendations.

(b) The Scheme referred to in clause (a) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fees as may be prescribed.

(3) On receipt of the scheme under sub-section (2), the Council may obtain such other particulars as may be considered necessary by it from the person or the institution concerned and thereafter it may, -

(a) if the scheme is defective and does not contain any necessary particular give a reasonable opportunity to the person or institution concerned for making a written representation and it shall be open to such person or institution to rectify the defects if any specified by the Council;

(b) consider the scheme having regard to the factors referred to in sub-section (7) and submit the scheme together with its recommendations thereon to the State Government.

(4) The Government may after considering the scheme and the recommendations of the Council under sub-section (3) and after obtaining where necessary such other particulars as may be considered necessary by it from the person or institution concerned, and having regard to the factors referred to in sub-section (7), either approve (with such conditions, if any, as it may consider necessary), the scheme in which case such approval shall be deemed to a permission under sub-section (1) and thereon the State Government may, by notification in the *Official Gazette*, amend the Schedule so as to include the name of such person or institution, or reject the scheme :

Provided that no scheme shall be rejected by the Government except after giving the person or institution or company concerned a reasonable opportunity of being heard :

Provided further that nothing in this sub-section shall prevent any person or institution whose scheme has been rejected by the Government to submit a fresh scheme and the provisions of this section

shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (2).

(5) Where within a period of one year from the date of submission of the scheme to the Government under sub-section (2), no order has been communicated to the person or institution submitting the scheme shall be deemed to have been approved by the Government in the form in which it had been submitted and accordingly, the permission of the Government required under sub-section (2) shall also be deemed to have been granted.

(6) In computing the time limit specified in sub-section (5), the time taken by the person or institution concerned for submitting the scheme, in furnishing any particulars called for by the Council, or by the Government, shall be excluded.

(7) The Council, while making its recommendations under clause (b) of sub-section (3) and the Government while passing an order, either approving or rejecting the scheme under sub-section (4) shall give due regard to the following factors, namely :-

- (a) whether the proposed institution or the existing institution seeking to open a new or higher course of study or training, would be in a position to offer the minimum standards of education as prescribed by the Council under section 24;
- (b) whether the person seeking to establish an institution or the existing institution seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources;
- (c) whether necessary facilities in respect of staff, equipments, accommodation, training and other facilities to ensure proper functioning of the institution or conducting the new courses of study or training or accommodating the increased admission capacity have been provided or would be provided within the time limit specified in the scheme;
- (d) Whether any arrangement has been made or programme drawn to impart training to students likely to attend such institution or course of study or training by person having the recognized Physiotherapy qualifications;
- (e) whether any arrangement has been made or programme drawn to meet the requirement of manpower in the field of practice of Physiotherapy; and
- (f) such other factors as may be prescribed.

(8) Where the State Government passes an order either approving or rejecting the scheme under this section, a copy of the order shall be communicated to the person or institution concerned.

Non-recognition
of qualifications
in certain cases.

17. (1) Where any institution is established except with the previous permission of the State Government in accordance with the provisions of section 16, no Physiotherapy qualification granted to any student of such institution shall be considered as the recognized qualification for the purposes of this Act.

(2) Where any institution opens a new or higher course of study or training (including a post-graduate course of study or training) except with the previous permission of the State Government in accordance with the provisions of section 16, no qualification granted to any student of such institution on the basis of such study or training shall be considered as the recognized qualification for the purposes of this Act.

(3) Where any institution increases its admission capacity in any course of study or training except with the previous permission of the State Government in accordance with the provisions of section 16, no Physiotherapy qualification granted to any student of such institution on the basis of the increase in its admission capacity shall be recognized Physiotherapy qualification for the purpose of this Act.

Explanation.- For the purposes of this section, the criteria for identifying a student who has been granted a Physiotherapy qualification on the basis of such increase in the admission capacity shall be such as may be prescribed.

Time for seeking
permission for
certain existing
institution, etc.

18. (1) If, before the commencement of this Act, any person has established an institution or any institution has opened a new or higher course of study or training or increased its admission capacity, such person or institution, as the case may be, shall seek within a period of one year from the commencement of this Act, the permission of the State Government in accordance with the provisions of section 16.

(2) If any person or institution, as the case may be, fails to seek the permission under sub-section (1), the provision of section 17 shall apply so far as may be as if the permission of the State Government under section 16 has been refused.

Recognition of
qualification
granted by
Universities, etc. in
State for
Physiotherapy
professionals.

19. (1) The qualifications granted by any University or other institutions in the State of Gujarat which are included in the Schedule shall be recognized qualifications for Physiotherapists.

(2) Any University or other Institution which grants qualification for the Physiotherapy professionals is not included in the Schedule may apply to the State Government to have such qualification recognized, and the State Government may, after consulting the Council, by

notification in the *Official Gazette*, amend the Schedule so as to include the name of such University or Institution.

20. (1) Subject to the provisions of this Act, any Physiotherapy qualifications included in the Schedule shall be sufficient qualification for enrollment in the register of Physiotherapists. **Effect of recognition.**

(2) No person shall after the date of the commencement of this Act, be entitled to be enrolled in the register of Physiotherapists unless he holds a recognized qualification :

Provided that any person who has immediately before the commencement of this Act become entitled to be enrolled shall on application made in this behalf before the expiry of one year from the said date be entitled to be enrolled :

Provided further that where there is any dispute as to whether a person is so entitled to be enrolled the matter shall be referred to the Equivalence and Registration Committee which shall consider the reference and make recommendation to the Executive Committee whose decision shall be final.

(3) Notwithstanding anything contained in sub-section (2), -

- (a) a citizen of India holding a qualification which entitles him to be registered with any Council of Physiotherapy in any foreign country, may with the approval of the Council, be enrolled as a Physiotherapist subject to passing the screening examination conducted by the Council from time to time.
- (b) a person not being a citizen of India who is employed as a Physiotherapist teacher in any hospital or institution in any State or Union Territory for the purpose of teaching, research or charitable work, may with the approval of the President, be enrolled temporarily in the register for such period as may be specified in this behalf in the order issued by the President, subject to passing the screening examination conducted by the Council from time to time :

Provided that the practice by such person shall be limited to the hospital or institution to which he is attached :

Provided further that no such enrollment under clause (a) or clause (b) shall be permitted unless the Council satisfies itself that person possesses the requisite knowledge and skill to practice Physiotherapy by

conducting a screening test or such other test or examination as may be prescribed.

Power to require information as to courses of study and training and examinations.

21. Every University or Institution in Gujarat which grants any recognized qualification or a recognized higher qualification shall furnish such information as the Council may, from time to time require as to the course of the study and training and examination to be undergone in order to obtain such qualification and generally as to requisite for obtaining such qualification.

Inspectors.

22. (1) The Executive Committee may, subject to regulations, if any, appoint such number of Inspectors as it deems necessary to inspect any institution where education or training in Physiotherapy is given, or to attend any examination held for the purpose of granting any recognized qualification or recognized higher qualification.

(2) The Inspectors appointed under this section shall not interfere with the course of any examination but they shall report to the Executive Committee on the sufficiency of the standard of the examinations and the courses of study and training at every institution which they inspect and on any other matters with regard to which the Executive Committee may require them to report.

(3) The Executive Committee, after consulting the Equivalence and Registration Committee, shall forward a copy of such report to the person or institution concerned and shall also forward such a copy with remarks, if any, to the State Government.

Withdrawal of recognition.

23. (1) When upon report by the Executive Committee, it appears to the Council that, -

(a) the courses of study and examination to be undergone to obtain a recognised qualification from any University or Institution in the State or the conditions for admission to such courses or the standards of proficiency required from candidates at such examinations;

(b) the staff, equipment, accommodation and training provided in such University or Institution,

are not in conformity with the regulations made under the Act or fall short of the standard prescribed by the Council, the Council shall make representation to that effect to the State Government.

(2) The State Government shall after considering such representation shall forward it, along with such remarks as it deems necessary, to the University or Institution with an intimation of the period within which the University or Institution may submit its explanation to the State Government.

(3) On the receipt of the explanation or where no explanation is submitted within the period fixed, then on the expiry of that period, the State Government may, after making such inquiry, if any, as it may think fit, by notification in the *Official Gazette*, direct that an entry shall be made in the Schedule against the names of the said University or Institution and the qualification conferred by them declaring that the qualification conferred by the said University or Institution shall be a recognised qualification only when granted before a specified date.

24. (1) The Council may prescribe by regulations the minimum standards of education in Physiotherapy required for granting recognized qualification in Gujarat. **Prescription of standards of education in Physiotherapy.**

(2) Copies of the draft regulations and all subsequent draft amendments thereof shall be sent by the Council to the State Government for approval.

(3) In particular and without prejudice to the generality of the foregoing power, the regulations may provide for, -

- (a) the nature, period of study and of practical training to be undertaken before admission to an examination;
- (b) the equipments and facilities to be provided for students undergoing approved course of study;
- (c) the subjects of examinations and standards to be attained;
- (d) any other conditions of admissions to examinations.

(4) The regulations shall be published in the *Official Gazette* and in such manner as the Council may direct.

(5) The Executive Committee shall from time to time report to the Council on the efficacy of these regulations and may recommend to the Council for such amendments thereof as it may think fit.

25. Every enrollment of a person as a Physiotherapist made in the register shall remain in force for a period of five years and may be renewed from time to time for a period of five year on an application being made by him in such form and in such manner, within such period and on payment of such fees as may be prescribed. **Renewal of registration.**

26. (1) The Council may make regulations prescribing the standards of professional conduct and etiquette and a code of ethics for Physiotherapists. **Professional conduct.**

(2) The regulations made under sub-section (1) may specify which violations thereof shall constitute professional misconduct and such provisions shall have effect notwithstanding anything contained in any law for the time being in force.

(3) Whenever the Executive Committee after such enquiry as it thinks fit, recommends that the name of any person enrolled in the register of Physiotherapists be removed there from, it shall report to the Council and the Council shall after such enquiry as it may deem fit, by order, direct the removal of the name of such person from the said register either permanently or for such period as may be specified in the order.

(4) Any person aggrieved by an order of the Council may prefer an appeal to the State Government in such form and manner, within such time and on payment of such fees as may be prescribed.

(5) On receipt of such appeal, the State Government may, after giving the person concerned an opportunity of being heard may pass such order as it deems fit which shall be final and binding.

CHAPTER IV FINANCE, ACCOUNTS, AUDIT AND RETURN

Payment to Council. 27. The State Government may, after due appropriation made by the Legislative Assembly by law in this behalf, pay to the Council in each financial year such sums as it may consider necessary for the performance of functions of the Council under this Act.

Fund of Council. 28. (1) The Council shall have its own fund and all sums which may from time to time be paid to it by the State Government and all the receipts of the Council (including registration fees for inspection of institutions, and any sums received from any authority or person) shall be credited to the fund and all payments by the Council shall be made therefrom.

(2) The surplus money, if any, of the fund shall be invested in the manner as may be prescribed and the money required for the administration of the Council shall be deposited in the nationalized banks.

(3) The Council may spend such sums as it thinks fit for performing its functions under this Act, and such shall be treated as expenditure payable under this Act.

Budget. 29. The Council shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the next financial year showing the estimated receipts and expenditure and copy thereof shall be forwarded to the State Government.

Annual Report. 30. The Council shall prepare once every year, in such form and at such time as may be prescribed an annual report giving a true and full account of its activities during the previous year, and copy thereof shall be forwarded to the State Government.

31. (1) The Council shall cause to be maintained such books of Accounts and accounts and other books in relation to its accounts in such form and in audit. such manner as may be prescribed.

Guj. XLIX of 1963. (2) The accounts of the Council shall be audited by the *Examiner, Gujarat Local Audit Fund*, under the provisions of the Gujarat Local Funds Audit Act, 1963.

(3) The accounts of the Council as certified by the *Examiner, Gujarat Local Audit Fund*, together with the audit report shall be forwarded annually to the State Government and State Government shall cause the same, to be laid before the Legislative Assembly.

32. The Council shall furnish reports, copies of its minutes, abstracts Information to of its accounts and other information to the State Government as may be be furnished. prescribed.

CHAPTER V REGISTRATION

33. (1) Every person possessing the qualification as a Persons entitled to Physiotherapist mentioned in the Schedule, shall subject to the registration. provisions contained in this Act and on payment of such fees as may be prescribed in this behalf, be entitled to have his name entered in the register, as the case may be, subject to such conditions as the Council may prescribe.

(2) Every person applying for registration as Physiotherapist shall in his application make a declaration that he, is in full time practice of Physiotherapist and is not engaged in any other trade or business or profession. He shall further undertake that if, after registration he takes up or is engaged in some other profession or business, he shall forthwith inform the Council of such service or employment or engagement and shall cease to practice as Physiotherapist, and that his name shall be deleted from the register.

(3) The application of registration shall be accompanied by all documents required to be produced as given in the prescribed form.

(4) The application for registration shall be submitted to the Secretary, who shall after scrutiny, place it before the council in the next meeting for its recommendation.

(5) The Council may require any candidate to appear personally before it in support of any statement made by him in his application to furnish such other particulars as may be required.

(6) The Council shall consider such objections as may be raised against the registration of any person as Physiotherapist, and if necessary may call upon any person objecting to the registration.

(7) After the consideration of the contents of the application and objections, if any, if the Council is of the opinion that the person applying for registration is fit and proper person to be registered, it shall make an order granting the registration.

Withdrawal of application. 34. Where a person who after submitting application for registration applies for withdrawal or his registration is refused, he shall be refunded the application fee after deducting one hundred rupees towards administrative expenses.

Certificate of registration. 35. When the application for registration is granted a certificate of registration shall be issued in the prescribed form.

Renewal of registration. 36. Any person desirous of getting his registration renewed shall make an application to the Council in the prescribed form along with the prescribed fees.

Removal of names from register. 37. The Council may, by order, remove from the register the name of any practitioner who has been convicted of a cognizable offence as defined under the Code of Criminal Procedure, 1973, or has been found guilty of professional misconduct after due enquiry. 2 of 1974.

Appeal against order of removal from register. 38. (1) Where the name of any person has been removed from the register on any ground other than that he is not possessed of the requisite qualification for being required as Physiotherapist, may appeal, in the prescribed manner and to payment of such fees, as may be prescribed, to the Government whose decision thereon shall be final.

(2) No appeal under sub-section (1) shall be admitted if it is referred after the expiry of a period of thirty days from the date of the order under section 37.

Rights and privileges of registered members. 39. No person, other than the Physiotherapist who possesses recognized Physiotherapy qualifications and is enrolled on the Register of the Council, -

- (a) shall hold office as Physiotherapist or any such office (by whatever designation called) in the Government or in any institution maintained by a local or other authority;
- (b) shall practice Physiotherapy anywhere in State of Gujarat and recover in respect of such practice any expenses or fees to which he may be entitled;
- (c) shall be entitled to sign or authenticate any certificate required by any law to be signed or authenticated by a Physiotherapist;

- 1 of 1872.
- (d) shall be entitled to give any evidence at any Court as an expert under the Evidence Act, 1872 on any matter relating to the Physiotherapy.

CHAPTER VI OFFENCES AND PENALTY

40. (1) No person other than institution recognized or authorized under this Act shall confer, grant or issue or hold itself out as entitled to confer, grant or issue any degree, diploma, license, certificate or other document stating or implying that the holder, grantee or recipient is qualified to practice the Physiotherapy. **Conferring, granting or issuing post-graduate degree, diploma license, etc., by unauthorized person or Institution.**
- (2) No person other than a Physiotherapist whose name is entered in the register maintained under this Act shall practice physiotherapy.
- (3) Any person who contravenes the provisions of sub-section (1) and if the person so contravening is an institution; the proprietor of the institute or the Chairperson and members of the managing board of the institute who knowingly or wilfully authorises or permits the contravention shall on conviction be punished with imprisonment for a term which may extend to two years and with fine which shall not be less than ten thousand rupees but which may extend to twenty-five thousand rupees.
- (4) Any person who contravenes the provisions of sub-section (2) shall on conviction be punished with imprisonment for a term which may extend to one year and with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees.
41. If any person whose name is not for the time being entered on the register, falsely represents that he is so entered or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable, on first conviction, with fine which may extend to five thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine which may extend to ten thousand rupees, or with both. **Penalty for falsely claiming to be registered.**
42. If any person, - **Misuse of title.**
- (a) not being a person registered in a register takes or uses the description of Physiotherapy practitioner, Physiotherapist consultant, or
- (b) not possessing a recognized Physiotherapy qualification, uses a degree or a diploma or an abbreviation indicating or implying a Physiotherapy qualification,

shall be punishable, on first conviction, with fine which may extend to five thousand rupees, and on any subsequent conviction with imprisonment which may extend to one year or with fine which may extend to ten thousand rupees, or with both.

Failure to
surrender
certificate of
registration.

43. If any person whose name has been removed from the register fails without sufficient cause, to surrender his Certification of registration shall on conviction be punishable with fine which may extend to five hundred rupees per month of such failure.

Cognizance of
offence.

44. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no Court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by a person authorized in this behalf by the Council. 2 of 1974.

CHAPTER VII MISCELLANEOUS

Directions by
State
Government.

45. (1) The Council shall carry out such directions as may be issued from time to time by the State Government for the efficient administration of this Act.

(2) If in connection with the exercise of its authority and the discharge of its functions by the Council under this Act, any dispute arises between the Council and the State Government, the decision of the Government on such dispute shall be final.

Power to
supersede
Council.

46. (1) If the Government is of the opinion that the Council is unable to perform, or has persistently made default in the performance of, the duty imposed on it by or under this Act, or has exceeded or abused its powers, or has wilfully or without sufficient cause failed to comply with any direction issued by the State Government under section 45, the State Government may, by notification in the *Official Gazette*, supersede the Council for such period as may be specified in the notification :

Provided that before issuing a notification under sub-section (1) thereby, the State Government shall issue a notice to the Council and shall give reasonable time to it to show cause.

(2) Upon the publication of a notification under sub-section, (1) superseding the Council, -

- (a) all the members of the Council shall, notwithstanding that their term of office has not expired, as from the date of supersession, vacate their offices as such members;
- (b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Council shall, during the period of

supersession, be exercised and performed by such person or persons as the Government may direct;

- (c) all property vested in the Council shall, during the period of supersession, vest in the State Government;
- (d) on the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may –
 - (i) extend the period of suppression for such further period as it may consider necessary, or
 - (ii) reconstitute the Council in the prescribed manner.

47. The members of the Council, the Registrar, the Deputy Registrar, Inspectors and other officers and employees appointed under this Act shall be deemed to be the public servants within the meaning of section 21 of the Indian Penal Code. **Officers to be public servants.**

48. No suit, prosecution or other legal proceedings shall lie against the State Government, the Council, the President, the Vice-President, the Registrar, the Deputy Registrar, members and officers and employees appointed under this Act for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules made there under. **Protection of action taken in good faith.**

49. (1) The State Government may make by notification in the *Official Gazette*, rules generally for carrying out the purposes of this Act. **Power to make rules.**

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:-

- (i) the management of the property of the Council, and the maintenance of accounts and audit;
- (ii) manner of election of the President and the Vice-President of the Council under section 7;
- (iii) summoning and holding of the meetings of the Councils, the time and place of such meetings and the conduct of business therein under section 10;
- (iv) powers and duties of the President and the Vice-President of the Council;

- (v) procedure for appointment of Registrar, Deputy Registrar and other staff of the Council including the pay scales and other service conditions under section 13;
- (vi) powers and duties of the Executive Committee, the summoning and holding of meeting thereof, the times and places of such meetings;
- (vii) term of office and the powers and duties of the Secretary and other officers and servants of the Council;
- (viii) the form and other particulars of the scheme for establishing new institutions, new courses of study, etc. under section 16;
- (ix) procedure for determining the admission capacity for courses of Physiotherapy under section 16;
- (x) the system for conducting a screening test or any other test or examination under section 20;
- (xi) procedure for renewal of registration under section 36;
- (xii) procedure for filing an appeal to the State Government against any order of the Council under section 38;
- (xiii) manner in which the Council shall furnish information to the State Government, the format of the annual report and the form in which the budget would be prepared under Chapter IV;
- (xiv) procedure for seeking registration including the fee to be paid, format of the certificate of registration, manner in which the name of a practitioner may be removed from the Register, etc. under Chapter V;
- (xv) any other matter which is to be or may be prescribed under this Act.

(3) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*:

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made, and shall be subject to rescission by the State Legislature or to

such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

50. (1) The Council may, with the previous sanction of the State Government, by notification in the *Official Gazette*, make regulations not inconsistent with this Act and the rules made there under for enabling it to perform its functions and for carrying out the purposes of this Act. **Power to make regulations.**

(2) In particular and without prejudice to the generality of the forgoing powers such regulations may provide for all or any of the following matters, namely :-

- (i) the maintenance and audit of the accounts of the Council;
- (ii) the registration of members of the Council;
- (iii) the rules of procedure for the transaction of business at the meeting of the Council and its committees;
- (iv) the procedure for appointments of Committees, their functions and duties;
- (v) the qualifications, procedure for appointment of Inspectors and their power and duties;
- (vi) the courses of study and period of training, to be undertaken, the subjects of examination and standards of proficiency therein to be obtained in any University or in any institution for grant of recognized Physiotherapist qualification;
- (vii) the standards of staff, equipment, accommodation, training and other facilities for study or training of the Physiotherapist;
- (viii) the conduct of examinations, qualifications of examiners and the conditions of the admission to such examinations;
- (ix) the standard of professional conduct and etiquette and code of ethics to be observed by Physiotherapists professionals under section 26;
- (x) the manner in which and the conditions subject to which an appeal may be preferred under section 37;
- (xi) any other matter which is to be, or may be, prescribed.

(3) The State Government may, by notification in the *Official Gazette*, rescind or modify any regulations made under this section and thereupon, the regulation shall cease to have effect or be modified accordingly.

Power to
remove
difficulties.

51. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government, may, by order published in the *Official Gazette*, make such provision not inconsistent with the provisions of this Act, as may appear it to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

SCHEDULE
(See section 19)
(A) GOVERNMENT COLLEGES

SR. NO	NAME OF COLLEGE	UNIVERSITY	QUALIFICATION
1	2	3	4
1	Government Physiotherapy College, Ahmedabad.	Gujarat University	Bachelor of Physiotherapy (B. Physio.)
2	College of Physiotherapy, Baroda.	M.S. University	Bachelor of Physiotherapy (B. Physio.)
3	Government Physiotherapy College, Surat.	Veer Narmad South Gujarat University	Bachelor of Physiotherapy (B. Physio.)
4	Government Physiotherapy College, Jamnagar	Saurashtra University	Bachelor of Physiotherapy (B. Physio.)
5	Government Physiotherapy College, Dahod.	Gujarat University	Bachelor of Physiotherapy (B. Physio.)

(B) SELF- FINANCE COLLEGES

SR. NO	NAME OF COLLEGE	UNIVERSITY	QUALIFICATION
1	2	3	4
1	S.B.B College of Physiotherapy, V. S. Hospital, Ellisbridge, Ahmedabad	Gujarat University	Bachelor of Physiotherapy (B. Physio.)
2	Physiotherapy College, Ahmedabad Institute of Medical Sciences, Nr. S. P. Ring Road, Ognaj Circa, Nr. Ognaj Lions eye Hospital, Lapkaman, Ahmedabad.	Gujarat University	Bachelor of Physiotherapy (B. Physio.)
3	Sigma Institute of Physiotherapy, Bakrol Ajwa-Nimeta Rd., Ta. Waghodia, Dist. Vadodara	Gujarat University	Bachelor of Physiotherapy (B. Physio.)

SR. NO	NAME OF COLLEGE	UNIVERSITY	QUALIFICATION
1	2	3	4
4	Shree Ghantakaran Mahaveer Physiotherapy College, Kanelav Road, Vavdi, Godhra-389001	Gujarat University	Bachelor of Physiotherapy (B. Physio.)
5	J.G. College of Physiotherapy, Opp Gulab Tower, Off Sola Road, Ahmedabad.	Gujarat University	Bachelor of Physiotherapy (B. Physio.)
6	Pioneer Physiotherapy College, Nr Ajwa Cross Road, NH-8, Ajwa-Nimeta Road, At & Post:- Sayajipura, Vadodara-380019	Gujarat University	Bachelor of Physiotherapy (B. Physio.)
7	Ahmedabad Physiotherapy College, Ghuma Road, Bopal Ahmedabad	Gujarat University	Bachelor of Physiotherapy (B. Physio.)
8	Parul Institute of Physiotherapy, Waghodiya, Dist. Vadodara	Gujarat University	Bachelor of Physiotherapy (B. Physio.)
9	K. M. Patel Institute of Physiotherapy, Karamsad,	Sardar Patel University	Bachelor of Physiotherapy (B. Physio.)
10	Shree Babubhai Girdharbhai Patel Physiotherapy College, Opp. General Post Office, J.P. Road Anand-388001	Sardar Patel University	Bachelor of Physiotherapy (B. Physio.)
11	Sarvajani College of Physiotherapy, Rampura, Chhada, Surat-395003	Veer Narmad South Gujarat University	Bachelor of Physiotherapy (B. Physio.)
12	Peoples Physiotherapy, College, South Gujarat Medical Education Trust, Physiotherapy College, Ugat Bheshan Road, Nr. Bheshan Jakat Naka, Jahangirabad, Rander Road, Surat.	Veer Narmad South Gujarat University	Bachelor of Physiotherapy (B. Physio.)

SR. NO	NAME OF COLLEGE	UNIVERSITY	QUALIFICATION
1	2	3	4
13	K. K. Sheth Physiotherapy College, Rajkot.	Saurashtra University	Bachelor of Physiotherapy (B. Physio.)
14	R. K. College of Physiotherapy, Rajkot.	Saurashtra University	Bachelor of Physiotherapy (B. Physio.)
15	Shree Swaminarayan Physiotherapy College, Jamnagar(Only for Girls).	Saurashtra University	Bachelor of Physiotherapy (B. Physio.)
16	C. U. Shah Physiotherapy College, Dhudharej Road, Surendranagar-363001.	Saurashtra University	Bachelor of Physiotherapy (B. Physio.)
17	D.M.Patel Physiotherapy College, Station Road, Amreli	Saurashtra University	Bachelor of Physiotherapy (B. Physio.)
18	Charotar Institute of Physiotherapy, At: Changa, Ta: Petlad, Dist: Anand-388421	The Charotar University of Science and Technology	Bachelor of Physiotherapy (B. Physio.)
19	Shree Swaminarayan Collge of physiotherapy, Kadodara, Surat	S.N.D.T, University, Bombay.	Bachelor of Physiotherapy (B. Physio.)
20	K.J. Pandya Collage of Physiotherapy, K.M.shah Dental Collage Campus, Waghodia, Dist.Vadodara	Suman Deep University (Deemed University)	Bachelor of Physiotherapy (B. Physio.)

STATEMENT OF OBJECTS AND REASONS

The role of Physiotherapists in the delivery of health services including investigation, treatment and prevention of diseases by virtue of special skills is paramount and these Physiotherapists are most critical manpower for providing preventive and curative health services.

There is no law at present in the State which provides qualifications for the registration of the Physiotherapists and for the registration of institutions imparting training to such Physiotherapists thereby giving specialized assistance to work alongside the physicians and other specialized medical officers.

It is, therefore, felt necessary that an enactment should be made to regulate the profession of Physiotherapists and to provide for registration of Physiotherapists and Universities and Institutions conferring degrees at graduate or post-graduate level in Physiotherapy and for constituting a Council for Physiotherapists and for other connected matters.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain, in brief, the important provisions of the Bill :-

Clause 1.- This clause provides for short title, extent and commencement.

Clause 2.- This clause provides for certain definitions used in the Bill.

Clause 3.- This clause provides for the constitution the Gujarat State Council for Physiotherapy. It also provides for the appointment of the first President, Vice-President and other members of the Council on its first constitution for the period not exceeding three years.

Clause 4.- This clause provides that the Council shall be a body corporate and shall power to acquire, hold and dispose of property, movable and immovable and may sue and be sued.

Clause 5.- This clause provides for the objects of the Council.

Clause 6.- This clause provides that the President and the Vice-President of the Council shall be elected from the members of the Council and also provides for their term.

Clause 7.- This clause provides for the mode of election.

Clause 8.- This clause provides for term of office of the elected and nominated members of the Council and filling up of casual vacancies.

Clause 9.- This clause provides for disqualifications of the members of the Council.

Clause 10.- This clause provides for the convening meetings of the Council and the quorum at such meetings.

Clause 11.- This clause provides that proceedings of the meetings shall be treated as confidential and no person shall disclose the said proceedings.

Clause 12.- This clause provides for vacancies, etc. not to invalidate proceedings of the Council.

Clause 13.- This clause provides for appointments of the Registrar, the Deputy Registrar and the officers and employees of the Council and conditions relating to service, pay and allowances, etc.

Clauses 14 and 15.- These clauses provide for constitution of Executive Committees and other committees by the Council and equivalence and registration committee.

Clause 16.- This clause provides for the requirement of prior permission of the State Government for establishment of new institutions, new course of study.

Clause 17.- This clause provides that any degree of physiotherapy obtained from non-recognised institution shall not be considered as the recognised degree for the purposes of the Act.

Clause 18.- This clause provides for obtaining permission of the State Government by the existing Institutions which are established before the commencement of this Act.

Clause 19.- This clause provides that the qualifications granted by the University or Institution which are included in the Schedule shall be the recognised qualification for physiotherapy professionals.

Clause 20.- This clause provides that qualifications are included in the Schedule shall be sufficient qualification for enrolment in the register of physiotherapists.

Clause 21.- This clause provides for furnishing information by the University or the Institution to the Council regarding courses of study, training, etc.

Clause 22.- This clause provides for appointment of Inspectors by the Executive Committee to inspect any Institute where education or training of physiotherapy is given.

Clause 23.- This clause provides for withdrawal of recognition.

Clause 24.- This clause provides that the Council shall prescribe by regulations, the minimum standard of education in physiotherapy required for granting recognised qualifications.

Clause 25.- This clause provides for renewal of registration.

Clause 26.- This clause provides that the Council shall prescribe by regulations, the minimum standard of professional conduct and etiquette and a code of ethics for physiotherapists and consequences for breach of professional ethics.

Clause 27.- This clause provides for payment of such sums by the State Government to the Council for the performance of the Council.

Clause 28.- This clause provides for the funds of the Council and investment of the surplus funds in the nationalised bank.

Clauses 29 to 31.- These clauses provide for preparation of budget, maintenance of accounts of the Council and audit by the Examiner, Gujarat Local Audit Fund and submission thereof to the State Government.

Clause 32.- This clause provides for furnishing the reports, the copy of minutes and accounts, etc. by the Council, to the State Government.

Clause 33.- This clause provides for qualifications and procedure for obtaining registration as a physiotherapist.

Clauses 34 to 36.- These clauses provide for withdrawal of application of registration, issue of certificate of registration when the application is granted and renewal of registration.

Clauses 37 and 38.- These clauses provide for removal of names from the register of physiotherapists and appeal against the order of Council of removal of the name, to the State Government.

Clause 39.- This clause provides for rights and privileges of registered physiotherapists.

Clauses 40 to 43.- These clauses provide for offences and penalties for granting, conferring degrees, diplomas, etc. by any person other than the recognised institutions and for practicing physiotherapy by a person without having his name entered in the register, penalty for falsely representation of registered physiotherapists, penalty for misuse of title of registered physiotherapists and penalty for failure to surrender certificate of registration.

Clause 44.- This clause provides for taking cognizance of offence by the Court upon the complain made by the person authorized by the Council.

Clause 45.- This clause provides for power of the State Government to give directions to the Council for efficient administration.

Clause 46.- This clause provides for the power of the State Government to supersede the Council on the ground of inability or by the Council persistent default in performance of duties under the Act and abuse of powers.

Clauses 47 and 48.- These clauses provide that the officers and the employees appointed under the Act shall be public servants and no suit and other legal proceedings shall lie against the State Government, President, Vice-President and other officers and employees for the action taken in good faith under this Act.

Clauses 49 and 50.- These clauses provide for power of the State Government to make rules for carrying out the purposes of the Act and of the Council to make regulations.

Clause 51.- This clause empowers the State Government by order published in the *Official Gazette*, to remove difficulties within two years.

JAYNARAYAN VYAS,

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the Gujarat State Council for Physiotherapy.

Clause 13 of the Bill provides for the appointment of the Registrar, Deputy Registrar, officers and other employees of the Council.

Clause 22 of the Bill provides for appointment of Inspectors by the Executive Committee of the Council.

Clause 27 of the Bill provides for payment of such sums by the State Government to the Council for the performance of the functions by the Council.

The Bill, if enacted and brought into operation, would involve an estimated annual expenditure of rupees 40.00 lakhs from the Consolidated Fund of the State, out of which rupees 24.52 lakhs would be of recurring nature and rupees 15.48 lakhs would be of non-recurring nature.

JAY NARAYAN VYAS,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the remaining provisions of the Act shall come into force.

Clause 3.- Proviso to para (j) of sub-clause (2) of this clause empowers the State Government to prescribe by rules the place where and the manner in which the election of the members referred to therein shall be held.

Clause 7.- This clause empowers the State Government to prescribe by rules, the manner in which the elections under this Chapter shall be conducted.

Clause 13.- (i) Sub-clause (5) of this clause empowers the State Government to prescribe by rules, the manner in which the Council may, with the previous sanction of the Government, suspend, dismiss or remove any person appointed as the Registrar or to impose any other penalty on him;

(ii) sub-clause (6) of this clause empowers the State Government to prescribe by rules, the salary and allowances and other conditions of service of the Registrar;

(iii) sub-clause (8) of this clause empowers the State Government to prescribe by rules, the manner in which the accounts of the Council shall be kept by the Registrar;

(iv) sub-clause (9) of this clause empowers the State Government to prescribe by rules, the supervisory powers of the Registrar over the staff and also the other duties and functions to be performed by the Registrar.

Clause 16.- Para (b) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, the form, the particulars, the manner in which the scheme shall be prepared and the fees to be accompanied with the scheme.

Clause 17.- Explanation to the sub-clause (3) of this clause empowers the State Government to prescribe by rules, the criteria for identifying a student who has been granted a Physiotherapy qualification on the basis of increase in the admission capacity.

Clause 20.- Second proviso to para (b) of sub-clause (3) of this clause empowers the State Government to prescribe by rules, to conduct a screening test or other test or examination to satisfy itself whether the person referred to therein possesses the requisite knowledge and skill to practice Physiotherapy.

Clause 26.- Sub-clause (4) of this clause empowers the State Government to prescribe by rules, the form, the manner, the time and the payment of fees for preferring the appeal to the State Government by any person against the order of the Council.

Clause 28.- Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner in which the surplus money of the fund shall be invested.

Clause 29.- This clause empowers the State Government to prescribe by rules, the form and the time in each year by which the Council shall prepare the budget.

Clause 30.- This clause empowers the State Government to prescribe by rules, the form and the time in each year by which the Council shall prepare the annual report.

Clause 31.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner and the form in which the Council shall maintain books of accounts and other books of accounts.

Clause 32.- This clause empowers the State Government to prescribe by rules, the other information to be furnished by the Council alongwith reports, its minutes, and abstracts of its accounts.

Clause 33.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the fees to be paid by a person to be entitled to have his name entered in the Register of Physiotherapist and also empowers the Council to prescribe by regulations the conditions subject to which his name shall be entered in the Register;

(ii) sub-clause (3) of this empowers the State Government to prescribe by rules the form of application for registration and the documents required to be accompanied with the application.

Clause 35.- This clause empowers the State Government to prescribe by rules, the form in which the certificate of registration shall be granted.

Clause 36.- This clause empowers the State Government to prescribe by rules, the form in which an application for renewal of registration shall be made and the fees to be paid for such renewal.

Clause 38.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which an appeal shall be made by a desirous person whose name has been removed from the Register and also the fees to be paid for such appeal.

Clause 46.- Item (ii) of para (d) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner in which the Council shall be reconstituted.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,

Dated the 22nd March, 2011.

JAYNARAYAN VYAS.

By Order and in the name of the Governor of Gujarat,

Gandhinagar.

Dated the 22nd March, 2011.

C. J. GOTHI,

Secretary, to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LII]

WEDNESDAY, MARCH 23, 2011/CAITRA 2, 1933

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly

Rules:-

THE GUJARAT NATIONAL LAW UNIVERSITY (AMENDMENT) BILL, 2011.

GUJARAT BILL NO. 31 OF 2011.

A BILL

further to amend the Gujarat National Law University Act, 2003.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

This Act may be called the Gujarat National Law University (Amendment) Act, 2011. **Short title.**

Guj. 9 of 2003.

2. In the Gujarat National Law University Act, 2003, in section 9, for sub-section (1), the following sub-section shall be substituted, namely :-

Amendment of section 9 of Guj. 9 of 2003.

“(1) The Chief Justice of India, or a sitting Judge of the Supreme Court to be nominated by the Chief Justice of India, shall be the Visitor of the University.”

STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 9 of the Gujarat National Law University Act, 2003 provides that the Chief Justice of India shall be the Visitor of the University. The Chief Justice of India is, however, required to discharge multi-faceted duties and functions and therefore, in order to do justice to the discharge of responsibilities of the Visitor of the Gujarat National Law University, the Chief Justice of India has desired that suitable amendment may be made in the Gujarat National Law University Act, 2003 to provide for nomination by the Chief Justice of India, of a sitting Judge of the Supreme Court to be the Visitor of the University.

Having considered the aforesaid desire of the Chief Justice of India, it is considered necessary to amend sub-section (1) of section 9 of the said Act to provide for nomination by the Chief Justice of India, of a sitting Judge of the Supreme Court to be the Visitor of the University.

This Bill seeks to amend the said Act to achieve the aforesaid object.

Gandhinagar,
Dated the 23rd March, 2011.

DILEEP SANGHANI.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 23rd March, 2011.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill Which was introduced on the 24th March, 2011 by Smt. Varshaben Doshi M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

THE GUJARAT DOMESTIC WORKERS (REGULATION OF EMPLOYMENT AND WELFARE) BILL, 2011

GUJARAT BILL NO. 33 OF 2011.

A BILL

to provide for working conditions of the domestic workers and welfare of such Persons and matters related therewith.

It is hereby enacted in the Sixty-Second Year of the Republic of India as follows:

- (1) This Act may be called the Gujarat Workers (Regulations of Employment and Welfare) Act, 2011.
- (2) It shall extent to the whole of the state of the Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.
- (1) 'domestic workers' means any person employed as domestic workers with household work such as cooking, house cleaning, washing clothes, maintaining of garden of the outskirt of the residential house and all other works incidental and connected with household affairs.

Short title extent
and
Commencement.

Definitions.

- (2) 'Competent Authority' means an officer of a local authority appointed under section 4.
- (3) 'Register' means Register of Domestic worker who are registered under this Act and their means are entered as such in the Register.
- (4) 'Prescribed' means prescribed by rules.

Registration of Domestic workers.

3. There shall be compulsory registration of domestic worker by the Competent Authority in the manner as may be prescribed by the State Government and no person shall employ any domestic worker whose name does not appear in the Register.

Competent Authority

4. (1) The State Government shall appoint a competent Authority for carrying out the objects of this Act.
- (2) It shall be the duty of Competent Authority to see that domestic workers are paid the wages as determined by the State Government by issuing notification according to the category of work, place of working, hours of work including weekly holidays and such other facilities as may be prescribed:-

Provided that the State Government may provide for different rates of wages for different areas and different category of works in the same city or a district.

Provided further that while determining the wages for domestic workers the State Government shall consult the Gujarat State Social Welfare Advisory Board and also the Gujarat State Women Economic Development Corporation.

5. No child who has not completed the age of fourteen year shall be employed or permitted to work as domestic worker and any breach shall be dealt with severely by the competent authority.
6. The competent authority may suo moto or on a complaint received by any domestic worker or any social organisation investigate whether there is any breach of the provisions of this Act and after due inquiry, in case of any breach may impose fine which shall not exceed rupees five thousand on the person under whose employment the domestic worker is employed.
7. The amount collected by way of fine shall be deposited in a fund to be known as Domestic Workers Welfare Fund and amount so deposited shall be utilised for the welfare of domestic worker in a manner as may be prescribed including for payment of compensation by the State Government.
8. (1) The State Government may make rules for the purpose of carrying out the provisions of the Act.
(2) All rules made under this act by the State Government shall be laid not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the state Legislature may make during the session in which they are so laid, or the session immediately following.

**Non
compliance
amounting
to offence.**

**Domestic
Workers
Welfare
Fund.**

**Power to
make rules.**

STATEMENT OF OBJECTS AND REASONS

It is observed that working conditions of the domestic worker is pitiable and primitive. Such persons are compelled to work for twelve hours a day without any rest. Moreover they are hardly paid adequate pay for their work. Their service is discharged without any notice or without giving any reason. No compensation is paid by their master after termination of their job. It is, therefore, considered necessary to protect their rights and also to provide for their registration, humanitarian conditions for working by providing adequate wages, fix working hours, regular health check up and compensation in case of termination of service.

The Bill seeks to achieve the aforesaid objects.

GANDHINAGAR.

VARSHABEN DOSHI

Dated the 3rd March, 2011

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The bill involves delegations of legislative powers in the following respects:-

Clause 3 of the Bill empowers the State Government to prescribe the manner of registration of domestic worker.

Clause 4 of the Bill empowers the State Government to prescribe the category of work, place of work, weekly holiday and other facilities.

Clause 7 of the Bill empowers the State Government to prescribe rules for the purpose of carrying out the objects of the Act.

The delegation of legislative powers as proposed is necessary and is of a normal character.

GANDHINAGAR.

VARSHABEN DOSHI

Dated the 3rd March, 2011

M. L. A.

Gandhinagar.

Dated : 24th March, 2011.

D.M.PATEL,

Secretary,

Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill Which was introduced on the 24th March, 2011 by Shri Mafatbhai Purohit M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

Use of Correct Gujarati Spelling by Public Institutes Bill, 2011

Gujarat Bill NO. 34 OF 2011

A BILL

to provide for control of use of wrong Gujarati spellings by the public institutes in the State.

It is hereby enacted in the Sixty-second Year of Republic of India as follows:-

1 (1) This Act may be called as the Use of Correct Gujarati Spellings by Public Institutes Act, 2011.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In this Act, unless the context otherwise requires-

Definition.

(i) "Authorised Officer" means the Authorised Officer of the Gujarat Sahitya Parishad nominated by it for the purpose of this Act.

(ii) "Public Institute" means the offices of State Government, Local Authorities, Boards, Corporations and Companies owned or controlled by the State Government and includes the institutes taking any type of grant or financial assistance from the State Government.

**Duty to use
right
Gujarati
spelling.**

3. It shall be the duty of every public Institute to use a right spelling of Gujarati language in its signboard, publications, instructions and advertisement.

**Noticing wrong
Gujarati
spelling.**

4. Any person can draw attention of the responsible officer of the public institute to the fact that it has used particular wrong spelling in its signboards, publications, instructions or advertisement.

**Correction by
the public
institute.**

5. On receipt of such intimation of wrong spelling used the responsible officer shall within a period of 15 days take action to correct the wrong spelling and intimate to the person of action taken.

**Action on failure
to correct
Gujarati
spelling.**

6. (1) Where the responsible officer of the public institute has not taken any appropriate action for correcting the wrong spelling of Gujarati, the authorised officer of Gujarat Sahitya Parishad shall issue notice seeking explanation of the responsible officer of the said public institute and also direct him to correct the wrong spelling within a period of one month.

(2) Where the authorised officer of the Gujarat Sahitya Parishad does not receive any explanation from the said responsible officer of the public institute or it has not corrected the wrong spelling, issue an advertisement in a daily newspaper publishing the information about the wrong spelling used by such public institute and the correct spelling ought to be there.

(3) The cost of the advertisement issued under sub-section (2) above shall be borne by such public institute.

**Authority and
reference to
correct
Gujarati
spellings.**

7. In deciding the true spelling of Gujarati word, the authorised officer of Gujarat Sahitya Parishad shall have access to the Sarth Jodani Kosh published by Gujarat Vidyapith, Ahmedabad from time to time.

**Government
Grant to
Authority.**

8. For the purpose of effective implementation of the provisions of this Act, State Government shall provide to the Gujarat Sahitya Parishad a recurring grant of such amount as may be decided by the State Government.

**Powers to give
directions.**

9. The State Government may give directions to the Public Institutes or Authorised Officer for carrying out the purposes of this Act.

Statement of Objects and Reasons

The current year is Golden Jubilee Year of the inception of Gujarat State. Government and people of Gujarat are celebrating Golden Jubilee Year in various ways on a large scale. It is right time that we also honour our mother language Gujarati as well.

It is seen now a days that lots of people are writing wrong Gujarati spellings. This requires to be checked at least in offices of State Government, Local Authorities, Boards, Corporations and Companies owned and controlled by the State Government. The Gujarat Sahitya Parishad is also linked up in the provisions of the Bill. The authorised Officer of the said Parishad will be the implementing authority and deciding authority of the correctness of the Gujarati spellings. In deciding the correct spelling of the Gujarati word, the Sarth Jodani Kosh of the Gujarat Vidyapith shall be the final reference book. Such a provision will be in tune with Mahatma Gandhi's preference to Sarth Jodani Kosh. Hence this Bill.

GANDHINAGAR.**Dated the 7th March, 2011****MAFATBHAI PUROHIT****M. L. A.**

Financial Memorandum

The Bill provides for giving grant of the recurring nature to the Gujarat Sahitya Parishad for effectively carrying out the provisions of the Act. The amount of the grant shall be decided by the State Government and shall be paid out of the Consolidated Fund of the State, if the provisions of the Bill are brought into force.

GANDHINAGAR.**MAFATBHAI PUROHIT****Dated the 7th March, 2011****M. L. A.****MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves the delegation of legislative power in the following respect:-

Clause 9- of the Bill empowers the state government to give directions to the public institutes or authorized officer for carrying out of the purposes of implementation of this Act.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

GANDHINAGAR.**MAFATBHAI PUROHIT****Dated the 7th March, 2011****M. L. A.****Gandhinagar.****D.M.PATEL,****Dated the 24th March, 2011.****Secretary,****Gujarat Legislative Assembly.**



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PART-V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill Which was introduced on the 24th March, 2011 by Shri Kamabhai Rathod M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

The Gujarat Preservation and Control of population of *Rozda* Bill, 2011.

GUJARAT BILL NO. 35 OF 2011

A BILL

to Preserve and Control the population of *Rozda* in the State of Gujarat and for matters connected therewith.

It is hereby enacted in the Sixty-second year of the Republic of India as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Gujarat Preservation and Control of Population of *Rozda* Act, 2011.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may notify in the Official Gazette.

Definition.

2. "Local Authority" means an authority under the Bombay Provincial Municipal Corporations Act, 1949 or the Gujarat Municipalities Act, 1963 or the Gujarat Panchayats Act, 1993 as the case may be.

System of capturing of *Rozda*.

3. (1) It shall be the duty of the State Government and the Local Authority personnel to capture *Rozda* within its territory in such a manner so as not to amount cruelty on animal in their respective territory.

V-Ex.34-1

34-1

(2) The Local authority shall require to see that *Rozda* does not hurdle the movement of traffic on roads where civilian traffic and pedestrian usually moves to the larger extent with a view to avoid accident with vehicles or human being.

Preservation of shelter and food to *Rozda*.

4. (1) The Local authority shall preserve properly the captured *Rozda* and make necessary arrangement for their preservation in shelter houses.

(2) The Local authority shall establish and maintain shelter houses with adequate Food and Water for feeding the *Rozdas* captured by it.

Control of population of *Rozda*.

5. (1) The Local authority shall make all reasonable efforts to control the population of *Rozdas*.

(2) Every *Rozda* shall be undertaken for sterilization operation in due course by the Local authority.

(3) It shall be duty of local authority to send relevant data on population of *Rozda*, the measures taken for controlling their population and result thereof.

(4) The State Government may issue direction to the Local authorities for measures to be taken for effective control of population of *Rozdas* in the State of Gujarat.

Power to make rules.

6. (1) The State Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act subject to the condition of previous publication.

(2) All rules made under this section shall be laid before the state legislature for thirty days as soon as after they are made and shall be subject to such modification or recession as the state government may make during the session in which they are so laid or the session immediately following.

Statement of Objects and Reasons.

The present system of capturing the *Rozdas* is cruel and painful for the *Rozdas* and amount to cruelty on animal. It is proposed to assign this work to the staff of the local authority who shall take care of capturing *Rozdas* so as not to cause any pain to the *Rozda*.

Moreover to save such captured *Rozdas* from being sent to slaughter houses, it is proposed to provide shelter houses for them alongwith adequate facilities of Food and Water.

It is also important to control population of *Rozdas*, main cause of road accident to some extent. Hence it is provided to undertake sterilization operation of *Rozdas*.

The Bill provides to achieve the aforesaid objects.

Gandhinagar.

Dated the 1st March, 2011

KAMABHAI RATHOD

M. L. A.

Memorandum Regarding delegated legislation

Clause 6 of the Bill, empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Gandhinagar.

Dated the 1st March, 2011

KAMABHAI RATHOD

M. L. A.

Gandhinagar.

Dated the 24th March, 2011.

D. M. PATEL,

Secretary,

Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill Which was introduced on the 24th March, 2011 by Shri Rakeshbhai Shah M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

THE GUJARAT OPEN PLACES (PREVENTION OF DISFIGUREMENT) BILL, 2011.

GUJARAT BILL NO. 36 OF 2011.

A BILL

to prevent disfigurement by objectionable or unauthorized advertisement of places open to public view and to prevent pasting of posters in such places and on public transport vehicles in the State of Gujarat.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Open Places (Prevention of Disfigurement) Act, 2011.

Short title and extent.

(2) It shall extend to the whole of the State of Gujarat.

Definitions. 2. In this Act, unless the context otherwise requires, -

- (i) "advertisement" includes any effigy or any bill, notice, document, paper or other things in the visible presentation form;
- (ii) "motor vehicle" means any vehicle owned by the Government including buses used for road transport service by the State Transport Corporation;
- (iii) "objectionable advertisement" means any advertisement which is likely to -
 - (a) Incite any person to commit any offence including violence; or
 - (b) Incite any section of the citizen of India to acts of violence against any other section of the citizen of India; or which
 - (c) outrage the religious feelings of any class of the citizens of India by insulting their religious beliefs deliberately; or
 - (d) be indecent or obscene or intended to blackmail;
 - (e) Obstruct pedestrian traffic;

Explanation.- An advertisement shall not be deemed to be objectionable merely because words or sign are used for criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means.

- (iv) "place open to public view" includes any private place or building, wall, fence, tree or other things visible to a person being in or passing along any public place;
- (v) "public place" means any place, road, street or way whether a thoroughfare or not to which the public are granted access or have a right to resort.

**Penalty for
disfigurement by
objectionable
advertisements.**

3. Whoever affixes to or inscribes or exhibits on any place open to public view any objectionable advertisement or deface or disfigure any picture or writing done by authorised person shall be punished of either description for a term which may extent to one year or with fine of not less than of rupees five thousand which may extent to ten thousand rupees or with both.

**Penalty for
disfigurement by
certain categories
of unauthorised
advertisements
without
permission.**

4. (1) Whoever without previous permission of the traffic branch of the State Police Force in the State affixes to or inscribes or exhibits on any place open to public view any advertisement which obstructs the line of vision of a person driving or distract the attention of any pedestrian so as to cause road danger to such person shall be punished with imprisonment of either description for a term which may extend to one year or with fine of not less than of five thousand rupees which may extend to ten thousand rupees or with both.

(2) The traffic branch of State Police Force shall decide the location for granting permission to allow advertisement taking into consideration the effect of such advertisement on moving traffic.

5. Any person aggrieved by any decision of the traffic branch of State Police Force under section 4, may appeal within thirty days to the Director General of Police and his decision as Appellant Authority shall be final.

Appeal.

6. Whoever affixes to or inscribes or exhibits on any place open to public view any advertisement without the written consent of the owner or occupant or person in management of the property or acts as such on bus-stop and buses of public transport system, or vehicles owned by the Government or deface any milestone or Government signboard shall be punished with imprisonment for a period of three month or with fine which may extend to two thousand rupees or with both.

Penalty for unauthorised disfigurement by advertisement.

7. All offences punishable under this Act shall be tried in a summary way.

Power to try offence summarily.

8. The provisions of this Act are in addition to and not in derogation of the provisions of any other law for the time being in force.

Provisions in addition to.

9. (1) The State Government may make rules for the purpose of carrying out the provisions of this Act.

Power to make rules.

(2) All rules made under this section shall be laid before the state legislature for thirty days as soon as after they are made and shall be subject to such modification or recession as the state government may make during the session in which they are so laid or the session immediately following.

STATEMENT OF OBJECTS AND REASONS

In the recent past, it is experienced that there is mushroom growth of disfigurement in public places by objectionable and unauthorized advertisement. This also hinders smooth traffic and also harms the pedestrians.

There are also increasing number of incidents of affixing posters and advertisements on bus-stops of public transport system in the State and also on motor vehicles owned and run by State Transport Corporation. Some posters also contain indecent or obscene material.

Due to this undue hardship faced by traffic police and public at large, it is considered necessary to enact a law to prevent disfigurement by objectionable or unauthorized advertisements at public places.

Hence this Bill.

GANDHINAGAR.

RAKESHBHAI SHAH

Dated the 3rd March, 2011

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respect :-

Clause 9.- This clause empowers the State Government to make rules for the purpose of carrying out the provisions of the Act.

The delegation of legislative powers, as aforesaid, is necessary and is of a normal character.

GANDHINAGAR.

RAKESHBHAI SHAH

Dated the 3rd March, 2011

M. L. A.

Gandhinagar.

D.M.PATEL,

Dated: 24th March, 2011

Secretary,

Gujarat Legislative Assembly.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

The following Bill Which was introduced on the 24th March, 2011 by Shri Kishorebhai Vankawala M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

The Gujarat Noise Pollution (Prevention) Bill, 2011

GUJARAT BILL NO. 37 OF 2011

A BILL

to provide for the control, regulation and elimination of noise pollution in the State of Gujarat and matters connected therewith.

Whereas the level and intensity of noise in urban and metropolitan areas has reached at a level which is hazardous to Human health and safety of the people.

And whereas, ecologists are of the view that the ill effects of the noise pollution is at the alarming level and unless checked may lead to irreparable loss to the citizens.

And whereas, it is considered necessary to take appropriate measures to check it.

It is hereby enacted in the Sixty-second Year of Republic of India as follows :-

Short title, extent
and commen-
cement.

1. (1) This Act may be called the Gujarat Noise Pollution (Prevention) Act, 2011.

(2) It shall extend to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,-

(a) "Authority" means an Officer of the Gujarat Pollution Control Board appointed as Noise Control Authority under Section 3.

(b) "Noise" means unwanted sound with reference to frequencies and duration of the sound in the context of environment and" includes noise within premises belonging to any person, noise created by vehicles; trains, loud speakers etc.

(c) "Prescribed" means prescribed by regulation made under the Act.

Authority to
regulate sound.

3. (1) The Authority shall prescribe standards or regulations regarding permissible noise from different sources.

(2) In cases where the Authority is of the opinion that with respect to any source of noise it increases the permissible level, he shall issue direction in writing to the concerned person and if such person fails to comply with the direction he shall take appropriate steps to prevent or eliminate the noise.

(3) The Authority shall take measures to educate people on noise pollution including use of media for the purpose.

(4) The Authority shall issue direction to the use of any product or mechanism in order to prevent, control, regulate or eliminate noise from that product or mechanism and failing to comply with such directions shall amount to offence.

(5) The Authority shall regulate the noise created by procession, marriage ceremony, by beating drums, public meetings or by use of fire crackers by prescribing regulations with prior approval of the State Government.

4. Every offence under this Act shall be cognizable and bailable for a minimum sum of rupees Ten thousand. All prosecutions under this Act shall be tribal in the Metropolitan Magistrate Court.

Cognizance of
offence.

5. Any person who is guilty of violating any of the provision of the Act or regulations made there under shall be punished with fine of not less than rupees ten thousand but not exceeding rupees twenty five thousand or be sentenced to imprisonment not exceeding three months or both.

Penalties.

6. Nothing in this Act shall take away or restrict any right of a person under Common Law or the Law of Torts to seek enforcement of his right to have any environmental Free noise.

Provision not to
restritt rights of
individual.

7. The Gujarat Pollution Control Board with previous approval of the State Government may make regulations, consistent with this Act, for carrying out all or any of the provisions under this Act.

Power to make
Regulation.

STATEMENT OF OBJECTS AND REASONS

The magnitude of unwanted sound in the environment increases day by day, which is hazardous to the health of the people. Source of noise includes industries, transport system, marriage procession on public road, public meetings by political parties and many more. Sometime, it is difficult to bear the intensity of such noise by a student preparing for examination and a patient who is on the death bed in Hospital.

At present, there is no adequate machinery in Government to regulate the problem of noise. It is also equally necessary to educate people for elimination of noise.

Hence, it is considered necessary to have a comprehensive law on this subject.

Hence, this Bill.

GANDHINAGAR

Dated the 3rd March, 2011.

KISHOREBHAI VANKAWALA

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in the following respect:-

Clause 3- of the Bill empowers the Gujarat Pollution Control Board to frame regulations for permissible noise from different sources.

Clause 7 of the Bill empowers the Board to frame regulations for carrying out the purposes of the Act.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

GANDHINAGAR

Dated the 3rd March, 2011.

KISHOREBHAI VANKAWALA

M. L. A.

GANDHINAGAR

Dated the 24th March, 2011.

D. M. PATEL

Secretary,

Gujarat Legislative Assembly



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PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill Which was introduced on the 24th March, 2011 by Shri Shankarbhai Chaudhary M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

THE GUJARAT PROHIBITION OF SMOKING IN CERTAIN PUBLIC PLACES BILL, 2011.

GUJARAT BILL NO. 38 OF 2011.

A BILL

to provide for prohibition of smoking in public places and to prohibit hookah bars and giving protection to Health of non-smoking and matters connected therewith.

It is hereby enacted in the sixty-second year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Prohibition of Smoking in Certain Public Places Act, 2011. Short title, extent and commencement.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.

Definitions. 2. In this Act, unless the context otherwise requires,-

- (1) "imprisonment" means imprisonment of either description as defined in the Indian Penal Code.
- (2) "public place" means a place including a garden shows, theatres halls, transport vehicles, road, street or way, whether a thorough fare or not and a landing place to which a public are granted access to or have a right to resort or over which they have right to pass.
- (3) "Government premises" means any building own or rented by the Central or State Government or local authorities including building where the Government offices are situated.
- (4) "hookah bar" means a place where a customer is served smoking facility in *hookah* which contains substance like nicotine, etc. hazardous to health;
- (5) "Special Officer" means a Government Officer designated as such for the purpose of implementation of this Act.

Prohibition of smoking at certain places and hookah bar and penalty on contravention.

3. (1) No person shall smoke at public places or at Government premises or a place of entertainment (including a cinematograph exhibition, dance or drama) to which members of the public are admitted.
- (2) The restaurant, hotel, cafes or other places of amusement shall be construed *hookah bar* for the purpose of this section and the owner of such places shall require to see that *hookah* is not served or a customer is not allowed to smoke *hookah* at such places.
- (3) Any person who contravenes the provisions of this section shall be liable to penalty of rupees five hundred which may extend to five thousand rupees.

Appointment of a Special Officer.

4. A special officer appointed by the State Government shall superintend that the prohibition under this Act is strictly implemented and any contravention to the provision is punished.

Discouragement of smoking habit and encouragement to the non-smokers.

5. (1) The State Government may discourage the smoking habit of people and encourage the persons who are non-smokers for lifetime by conferring honour and awards to such people.
- (2) It shall be the duty of the Special Officer to arrange programmes for public awareness about non-smoking in the society.

STATEMENT OF OBJECTS AND REASONS

Smoking at public places as well as in the Government owned buildings and offices has become matter of great concern now a days. The non-smoker folk has also to suffer due to this nuisance.

Moreover, in the recent time the youths are provided facilities of smoking *hookah* at hookah bar. This being hazardous to health requires prohibitory measures.

Hence it is considered necessary to enact a law which prohibits smoking at public places, Government premises and at hookah bar.

It also provide for efforts by the State Government for encouraging non-smoker folk by awarding honour to such people.

Hence this Bill.

GANDHINAGAR.

SHANKARBHAI CHAUDHARY

Dated the 7th March, 2011

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in the following respect:-

Clause 4- of the Bill empowers the state government to appoint special officer for the purpose of implementation of this Act.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

GANDHINAGAR.

SHANKARBHAI CHAUDHARY

Dated the 7th March, 2011

M. L. A.

Gandhinagar.

Dated : 24th March, 2011.

D.M.PATEL,

Secretary,

Gujarat Legislative Assembly.



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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT APPROPRIATION-BILL, 2011.

GUJARAT BILL NO. 32 OF 2011.

A BILL

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2012.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Appropriation Act, 2011. Short title.
2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of eighty thousand six hundred ninety-four crores, eleven lakhs, eighteen thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2011-2012 in respect of the services and purposes specified in column 2 of the schedule. Withdrawal of Rs. 8,06,94,11,18,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 2011-2012.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

SCHEDULE

(See sections 2 and 3)

Demand No. Vote/ Appropriation	Services and Purposes	Revenue/ Capital	Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
1	Agriculture and Co-operation Department	Revenue	147325000		147325000
		Capital	12500000		12500000
2	Agriculture	Revenue	12955700000		12955700000
		Capital	1648775000		1648775000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	605971000		605971000
		Capital	1852570000		1852570000
4	Animal Husbandry	Revenue	2664743000		2664743000
5	Co-operation	Revenue	1586561000		1586561000
		Capital	180751000		180751000
6	Fisheries	Revenue	464122000		464122000
		Capital	183120000		183120000
7	Other expenditure pertaining to Agriculture and Co-operation Department	Capital	11000000		11000000
8	Education Department	Revenue	72390000		72390000
9	Education	Revenue	114835942000	1762500000	116598442000
		Capital	4105180000		4105180000
10	Other expenditure pertaining to Education Department	Revenue	17402000		17402000
		Capital	213615000		213615000
11	Energy and Petro-Chemicals Department	Revenue	45080000		45080000
12	Tax Collection Charges (Energy and Petrochemicals Department)	Revenue	143950000		143950000
13	Power Projects	Revenue	27729100000		27729100000
		Capital	6272001000		6272001000
14	Other expenditure pertaining to Energy and Petro-Chemicals Department	Revenue	13500000		13500000
		Capital	2001300000		2001300000
15	Finance Department	Revenue	160700000		160700000
16	Tax Collection Charges (Finance Department)	Revenue	1739199000		1739199000
17	Treasury and Accounts Administration	Revenue	1083104000		1083104000

Demand No. Vote/ Appropriation	Services and Purposes	Revenue/ Capital	Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
18	Pension and other Retirement Benefits.	Revenue	41761690000	4000000	41765690000
19	Other expenditure pertaining to Finance Department	Revenue	26866394000		26866394000
		Capital	566000000	100000	566100000
20	Repayment of Debt pertaining to Finance Department and its Servicing	Revenue		103211125000	103211125000
		Capital		48040630000	48040630000
21	Food, Civil Supplies and Consumer Affairs Department	Revenue	244737000		244737000
22	Civil Supplies	Revenue	2275774000		2275774000
23	Food	Revenue	1352718000		1352718000
		Capital	102100000		102100000
24	Other expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department	Capital	1600000		1600000
25	Forest and Environment Department	Revenue	79965000		79965000
26	Forest	Revenue	2585596000	1150000	2586746000
		Capital	2243254000		2243254000
27	Environment	Revenue	100000000		100000000
28	Other expenditure pertaining to Forest and Environment Department	Capital	5800000		5800000
29	Governor	Revenue		47378000	47378000
30	Council of Ministers	Revenue	30150000		30150000
31	Election	Revenue	365161000		365161000
32	Public Service Commission	Revenue	70700000	95650000	166350000
33	General Administration Department	Revenue	777952000		777952000
34	Economic Advice and Statistics	Revenue	1110868000		1110868000
35	Other expenditure pertaining to General Administration Department	Revenue	137902000	5775000	143677000
		Capital	8236740000		8236740000
36	State Legislature	Revenue	212550000	2550000	215100000
37	Loans and Advances to Government Servants in Gujarat Legislature Secretariat	Capital	3407000		3407000
38	Health and Family Welfare Department	Revenue	108000000		108000000
39	Medical and Public Health	Revenue	19919114000		19919114000
		Capital	4576814000		4576814000

Demand No. Vote/ Appropriation	Services and Purposes	Revenue/ Capital	Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
40	Family Welfare	Revenue	3808740000		3808740000
		Capital	90700000		90700000
41	Other expenditure pertaining to Health and Family Welfare Department	Revenue	3897000		3897000
		Capital	16000000		16000000
42	Home Department	Revenue	212426000		212426000
43	Police	Revenue	21664686000		21664686000
44	Jails	Revenue	567858000		567858000
45	State Excise	Revenue	124906000		124906000
46	Other expenditure pertaining to Home Department	Revenue	881376000	2300000	883676000
		Capital	4738268000		4738268000
47	Industries and Mines Department	Revenue	117711000		117711000
48	Stationery and Printing	Revenue	549647000		549647000
		Capital	94300000		94300000
49	Industries	Revenue	7332327000		7332327000
		Capital	2136400000		2136400000
50	Mines and Minerals	Revenue	701077000		701077000
		Capital	43000000		43000000
51	Tourism	Revenue	553655000		553655000
		Capital	2139500000		2139500000
52	Other expenditure pertaining to Industries and Mines Department	Revenue	321450000		321450000
		Capital	293000000		293000000
53	Information and Broadcasting Department	Revenue	25905000		25905000
54	Information and Publicity	Revenue	687939000		687939000
55	Other Expenditure pertaining to Information and Broadcasting Department	Revenue	58890000		58890000
		Capital	2600000		2600000
56	Labour and Employment Department	Revenue	127027000		127027000
57	Labour and Employment	Revenue	3553995000		3553995000
58	Other expenditure pertaining to Labour and Employment Department	Capital	3255000		3255000
59	Legal Department	Revenue	94717000		94717000
60	Administration of Justice	Revenue	5382868000	582399000	5965267000

Demand No. Vote/ Appropriation	Services and Purposes	Revenue/ Capital	Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
61	Other expenditure pertaining to Legal Department	Revenue	404655000		404655000
		Capital	17700000		17700000
62	Legislative and Parliamentary Affairs Department	Revenue	63832000		63832000
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	850000		850000
64	Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	220100000		220100000
65	Narmada Development Scheme	Capital	27105372000		27105372000
66	Irrigation and Soil Conservation	Revenue	9270749000		9270749000
		Capital	11774328000		11774328000
67	Water Supply	Revenue	4029700000		4029700000
		Capital	2167000000		2167000000
68	Other expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Capital	16000000		16000000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	96480000		96480000
70	Community Development	Revenue	7722229000		7722229000
71	Rural Housing and Rural Development	Revenue	6279226000	1686500000	7965726000
72	Compensation and Assignments	Revenue	1062319000		1062319000
73	Other expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	4249520000		4249520000
		Capital	80820000		80820000
74	Transport	Revenue	6287981000		6287981000
		Capital	3650000000		3650000000
75	Other expenditure pertaining to Ports and Transport Department	Revenue	493890000		493890000
		Capital	500002000		500002000
76	Revenue Department	Revenue	256887000		256887000
77	Tax Collection Charges (Revenue Department)	Revenue	3099025000		3099025000
78	District Administration	Revenue	3256606000		3256606000
79	Relief on account of Natural Calamities	Revenue	10596832000		10596832000
		Capital	2100000000		2100000000
80	Dangs District	Revenue	530891000		530891000

Demand No. Vote/ Appropriation	Services and Purposes	Revenue/ Capital	Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
81	Compensation and Assignments	Revenue	407350000	800000	408150000
		Capital	1100000	200000	1300000
82	Other expenditure pertaining to Revenue Department	Revenue	31660000		31660000
		Capital	7176000		7176000
83	Roads and Buildings Department	Revenue	97244000		97244000
84	Non-Residential Buildings	Revenue	4914213000	3450000	4917663000
		Capital	10144948000		10144948000
85	Residential Buildings	Revenue	1391636000		1391636000
		Capital	811492000		811492000
86	Roads and Bridges	Revenue	18250344000		18250344000
		Capital	16260371000		16260371000
87	Gujarat Capital Construction Scheme	Revenue	129886000		129886000
		Capital	1008200000		1008200000
88	Other expenditure pertaining to Roads and Buildings Department	Revenue	159255000		159255000
		Capital	71000000		71000000
89	Science and Technology Department	Revenue	868293000		868293000
90	Other expenditure pertaining to Science and Technology Department	Revenue	1108300000		1108300000
		Capital	94518000		94518000
91	Social Justice and Empowerment Department	Revenue	47335000		47335000
92	Social Security and Welfare	Revenue	5762634000	13500000	5776134000
		Capital	125880000		125880000
93	Welfare of Scheduled Tribes	Revenue	1572645000		1572645000
		Capital	92614000		92614000
94	Other expenditure pertaining to Social Justice and Empowerment Department	Capital	2300000		2300000
95	Scheduled Castes Sub-Plan	Revenue	14688870000		14688870000
		Capital	5813040000		5813040000
96	Tribal Area Sub-Plan	Revenue	28752098000		28752098000
		Capital	20728430000		20728430000
97	Sports, Youth and Cultural Activities Department	Revenue	63801000		63801000
98	Youth Services and Cultural Activities	Revenue	1965551000		1965551000

Demand No. Vote/ Appropriation	Services and Purposes	Revenue/ Capital	Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
99	Other expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital	1156000		1156000
100	Urban Development and Urban Housing Department	Revenue	45399000		45399000
101	Urban Housing	Revenue	1211000	925820000	927031000
102	Urban Development	Revenue	40749587000		40749587000
		Capital	6250100000		6250100000
103	Compensation, Assignment and Tax Collection Charges	Revenue	1182000000	300000000	1482000000
104	Other expenditure pertaining to Urban Development and Urban Housing Department	Revenue	9757000		9757000
		Capital	2010000		2010000
105	Women and Child Development Department	Revenue	59351000		59351000
106	Other expenditure pertaining to Women and Child Development Department	Revenue	8332560000	5500000	8338060000
		Capital	1100906000		1100906000
107	Climate Change Department	Revenue	5469000		5469000
108	Other expenditure pertaining to Climate Change Department	Revenue	996400000		996400000
Total:		Revenue	498548928000	108650397000	607199325000
		Capital	151700863000	48040930000	199741793000
Grand Total:			650249791000	156691327000	806941118000

STATEMENT OF OBJECTS AND REASONS

Article 204(1) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State, of all moneys required to meet-

- (a) the grants so made by the Assembly, and
- (b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the expenditure charged on the Consolidated Fund of the State for the financial year ending on the 31st March, 2012.

The amounts are shown below: -	Rs.
(a) Revenue Expenditure	6,07,19,93,25,000
(b) Capital Expenditure	1,99,74,17,93,000
Total :-	8,06,94,11,18,000

Gandhinagar,
Dated the 25th March, 2011.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 25th March, 2011.

C. J. GOTHI.

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. LII]

MONDAY, SEPTEMBER 19, 2011/BHADRA 28, 1933

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT PRIMARY EDUCATION (AMENDMENT)

BILL, 2011.

GUJARAT BILL NO. 39 OF 2011.

A BILL

further to amend the Gujarat Primary Education Act, 1947.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Primary Education (Amendment) Act, 2011. **Short title.**

Bom. LXI
of 1947.

2. In the Gujarat Primary Education Act, 1947, in section 23, in sub-section (3), for the words "appointments as Assistant Education Inspectors, Supervisors, *Vidya Sahayaks* and Primary Teachers", the words "appointment on the posts of Assistant Education Inspector, Supervisor, *Vidya Sahayak*, Primary Teacher, Head Teacher and on such other posts as the State Government may, by notification in the *Official Gazette*, specify" shall be substituted. **Amendment of section 23 of Bom. LXI of 1947.**

STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of section 23 of the Gujarat Primary Education Act, 1947, the State Level Staff Committee for Primary Education has been empowered to make selection for appointment on the posts of Assistant Education Inspector, Supervisor, *Vidya Sahayak* and Primary Teacher.

Since the new cadre of Head Teacher with 5000 posts is created for primary education, it has been decided to recruit the candidates on the posts of Head Teacher through the State Level Staff Committee. It is, therefore, considered necessary to amend sub-section (3) of section 23 of the said Act and power is also taken to the State Government to specify, by notification, such other posts as the State Government may consider necessary for appointment through the State Level Staff Committee.

RAMANLAL VORA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respect, namely:-

Clause 2. This clause empowers the State Government to specify, by notification in the *Official Gazette*, such other posts which may be brought within the purview of the State Level Staff Selection Committee.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 17th September, 2011.

RAMANLAL VORA .

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 19th September, 2011.

C.J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.



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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT ANIMAL PRESERVATION (AMENDMENT)

BILL, 2011.

GUJARAT BILL NO. 40 OF 2011.

A BILL

further to amend the Gujarat Animal Preservation Act, 1954.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Animal Preservation (Amendment) Act, 2011.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Bom. LXXII
of 1954.

2. In the Gujarat Animal Preservation Act, 1954 (hereinafter referred to as "the principal Act"), after section 6, the following new sections shall be inserted, namely:-

Insertion of new sections 6A and 6B in Bom. LXXII of 1954.

Prohibition
against
transportation
of specified
animals for
slaughter.

"6A. (1) No person shall transport or offer for transport or cause to be transported any animal specified in sub-section (1A) of section 5 from any place within the State to any another place within the State for the purpose of its slaughter in contravention of the provisions of this Act or with the knowledge that it will be or is likely to be so slaughtered:

Provided that a person shall be deemed to be transporting such animal for the purpose of slaughter unless contrary is proved thereto to the satisfaction of the concerned authority or officer by such person or he has obtained a permit under sub-section (2) for transporting animal for bona fide agricultural or animal husbandry purpose from such authority or officer as the State Government may appoint in this behalf.

(2) (a) A person may make an application in the prescribed form to the authority or officer referred to in sub-section (1) for grant of permit in writing for transportation of any animal specified in sub-section (1A) of section 5 from any place within the State to any another place within the State.

(b) If, on receipt of any such application for grant of permit, such authority is of the opinion that grant of permit shall not be detrimental to the object of the Act, it may grant permit in such form and on payment of such fee as may be prescribed and subject to such conditions as it may think fit to impose in accordance with such rules as may be prescribed.

(3) Whenever any person transports or causes to be transported in contravention of provisions of sub-section (1) any animal as specified in sub-section (1A) of section 5, such vehicle or any conveyance used in transporting such animal alongwith such animal shall be liable to be seized by such authority or officer as the State Government may appoint in this behalf.

(4) The vehicle or conveyance so seized under sub-section (3) shall not be released by the order of the court on bond or surety before the expiry of six months from the date of such seizure or till the final judgment of the court, whichever is earlier.

Prohibition
against selling
or buying beef
or beef
products.

6B. (1) No person shall directly or indirectly sell, keep, store, transport, offer or expose for sell or buy beef or beef products in any form.

(2) Whenever any person transports or causes to be transported the beef or beef products, such vehicle or any conveyance used in transporting such beef or beef products alongwith such beef or beef products shall be liable to be seized by such authority or officer as the State Government may appoint in this behalf.

(3) The vehicle or conveyance so seized under sub-section (2) shall not be released by the order of the court on bond or surety before the expiry of six months from the date of such seizure or till the final judgment of the court, whichever is earlier.

Explanation.- For the purpose of this section "beef" means flesh of any animal specified in sub-section (1A) of section 5, in any form."

Substitution of section 8 of Bom. LXXII of 1954. 3. In the principal Act, for section 8, the following section shall be substituted, namely:-

Penalties. "8. (1) Whoever in contravention of the provisions of sub-section (1) of section 5, slaughters any animal without a certificate for which such certificate is required, shall, on conviction be punished with imprisonment for a term which may extend to one year and with fine which may extend to ten thousand rupees.

(2) Whoever in contravention of the provisions of sub-section (1) of section 5, slaughters any animal as specified in sub-section (1A) of section 5 shall, on conviction, be punished with imprisonment for a term which may extend to seven years but shall not be less than three years and with fine which may extend to fifty thousand rupees.

(3) Whoever contravenes the provisions of sections 6 shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to ten thousand rupees.

(4) Whoever contravenes the provisions of section 6A or 6B shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine which may extend to twenty-five thousand rupees."

Amendment of section 15 of Bom. LXXII of 1954. 4. In the principal Act, in section 15, -

(i) in sub-section (2), after clause (c), the following clause shall be inserted, namely :-

"(cc) the form of application, the form of permit, the fees to be paid and conditions for granting permit under section 6A;";

(ii) to sub-section (3), the following proviso shall be added, namely :-

"Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section."

STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of sub-section (1A) of section 5 of the Gujarat Animal Preservation Act, 1954, there is prohibition against slaughter of a cow, the calf of a cow, a bull and a bullock. However, at present there is no provision in the Act to prevent the transportation of said animals for the purpose of slaughter.

Therefore, it seems necessary to have check on the transportation of said animals from any place within the State to any another place within the State for the purpose of slaughter. It is, therefore, considered necessary to provide that a person shall be deemed to be transporting the specified animals for slaughter unless contrary is proved to the satisfaction of the concerned officer or authority by such person or he has obtained a permit for transportation of the specified animals for *bona fide* agricultural or animal husbandry purpose, from the officer or authority as may be appointed by the State Government and on contravention of the provisions the power is taken to seize the vehicles and animals. New section 6A proposed to be inserted by *Clause 2* of the Bill provides for the same. It is also considered necessary to provide for non-release of the vehicle so seized before the expiry of six months from the date of such seizure or before the final judgment of the court whichever is earlier.

It is also felt necessary to prohibit the sale, storage, transportation, offering or exposing for selling or buying the beef or beef products in any form by any person and to provide for seizure of such vehicle or any conveyance used in transporting such beef or beef products alongwith such beef or beef products by such authority or officer as the State Government may appoint. New section 6B proposed to be inserted by *Clause 2* of the Bill provides for the same.

To strengthen the enforcement and implementation of the said Act, it is considered necessary to provide for stringent punishment for violation of the provisions relating to prohibition on slaughtering as also for transportation of such animals for slaughter and also for sale, storage, transportation of beef or beef products. *Clause 3* of the Bill proposes to substitute the existing section 8 for the said purpose.

Clause 4 of the Bill provides for amendment of section 15 so as to empower the State Government to make rules in view of the amended provisions.

This Bill seeks to achieve the aforesaid objects.

DILEEP SANGHANI,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects, namely: -

Clause 1.—Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2.— (i) Proviso to sub-section (1) of new section 6A proposed to be inserted by this clause empowers the State Government to appoint such authority or officer to grant a permit for transporting animals for *bona fide* agricultural or animal husbandry purpose from any place within the State to any another place within the State;

(ii) clause (a) of sub-section (2) of new section 6A empowers the State Government to prescribe the form of application to be made to the authority or officer for grant of permit for transporting animals for *bona fide* agricultural or animal husbandry purpose from any place within the State to any another place within the State;

(iii) sub-section (3) of new section 6A empowers the State Government to appoint such authority or officer to seize any vehicle or conveyance used in transporting any animal along with such animal, without any lawful authority;

(iv) sub-section (2) of new section 6B proposed to be inserted by this clause empowers the State Government to appoint such authority or officer to seize any vehicle or conveyance used in transporting beef or beef products alongwith such beef or beef products.

Clause 4.— (i) New clause (cc) proposed to be inserted in section 15 by this clause empowers the State Government to prescribe the form of application, the form of permit, the fees to be paid and conditions for granting permit under section 6A;

(ii) proviso to sub-section (3) of section 15 proposed to be added by this clause empowers the State Government to dispense with the previous publication of any rule to be made under section 15.

The delegation of legislative powers, as aforesaid, is necessary and is of a normal character.

Gandhinagar,
Dated the 19th September, 2011.

DILEEP SANGHANI.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 19th September, 2011.

C. J. GOTH,
Secretary to the Government of Gujarat.
Legislative and Parliamentary
Affairs Department.